

[Senate Hearing 108-]  
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DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR FISCAL YEAR 2004

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TUESDAY, MAY 6, 2003

U.S. Senate,

Subcommittee of the Committee on Appropriations,  
Washington, DC.

The subcommittee met at 10 a.m., in room SD-124, Dirksen  
Senate Office Building, Hon. Thad Cochran (chairman) presiding.

Present: Senators Cochran, Campbell, Byrd, Inouye,  
Hollings, Leahy, and Kohl.

DEPARTMENT OF HOMELAND SECURITY

STATEMENT OF HON. ASA HUTCHINSON, UNDER SECRETARY,  
BORDER AND TRANSPORTATION SECURITY  
DIRECTORATE

OPENING STATEMENT OF SENATOR THAD COCHRAN

Senator Cochran. The committee hearing will please come to order. This morning we continue our hearings on the fiscal year 2004 budget request for the Department of Homeland Security. We review this morning the programs and activities of the Border and Transportation Security Directorate. I am very pleased to welcome the Under Secretary for Border and Transportation Security, Asa Hutchinson. I think the President and Secretary Tom Ridge have chosen a very able and experienced public servant for this very difficult and important undertaking.

The Homeland Security Act of 2002 transferred the United States Customs Service, the Office of Domestic Preparedness, the Transportation Security Administration, the Federal Law Enforcement Training Center, and the Federal Protective Service to this directorate. In addition, the directorate is responsible for integrating two-thirds of the former Immigration and Naturalization Service with the United States Customs Service and with quarantine inspection activities of the Animal and Plant Health Inspection Service. For fiscal year 2004, the President's budget requests \$16.2 billion in discretionary funds for border and transportation security, along with an additional \$1.8 billion in offsetting collections.

Mr. Secretary, we look forward to hearing from you. We have your prepared statement which we will make a part of the committee's hearing record, and we invite you to make any statement in explanation of the budget request which you think

would be helpful to our committee's understanding of the budget request.

At this time, I am pleased to yield to other Senators of this committee for any opening statements they may have.

Senator Byrd.

STATEMENT OF SENATOR ROBERT C. BYRD

Senator Byrd. There are two things they haven't developed yet, how to create a good public address system and how to fashion milk cartons so they will open as stated on the top of the carton.

I join you, Mr. Chairman, in welcoming Under Secretary Hutchinson. This is his first time appearing before the committee in his current capacity. We look forward to hearing from him and to working with him. There is no greater responsibility than that of making our Nation's borders and transportation system secure. It is our failure to do so prior to that tragic day in September 2001 that led to the loss of the lives of thousands of innocent Americans and others, and it was in reaction to those horrific events that the President and this Congress created the Department in which you now serve.

Our role in Congress is to ensure that you and the many other dedicated employees of the Department of Homeland Security have the resources that you need to do your jobs, and to do your jobs well. In that regard I have questioned some of the requested funding levels for certain activities of the Department, such as the revised entry/exit visa system that we discussed last week with Secretary Ridge, and the appearance of a singular focus on aviation security in what is supposed to be an agency dedicated to the security of all forms of transportation. I and other Members will address these and other issues in our questions, and we look forward to your testimony.

Thank you.

Senator Cochran. Senator Campbell.

STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Senator Campbell. Thank you, Mr. Chairman. I will make my opening statement very brief and ask that my complete statement be included in the record.

Senator Cochran. Without objection, so ordered.

Senator Campbell. Welcome, Under Secretary Hutchinson. I guess what we're learning with this whole problem with homeland security is that those people who would do us some damage have learned how to use the very liberties that we cherish against us.

The use of American money to be filtered to foreign operatives, the opportunity to enroll in our universities, in our flight schools, and to travel without documentation, all of the things that we sort of take for granted, they have learned how to use as weapons against us, and I think it was certainly a rude awakening September 11, and it has changed our world forever, but when we need to protect about 7,500 miles of land border and 95,000 miles of shoreline, or whatever it is, and at the same time make sure that we don't infringe on civil

liberties or the rights of people that they have come to accept as the American way of lifestyle is a darned difficult thing, and all of us are fumbling along, I think, trying to do the best we can, and I just wanted, as one Senator, to say that I certainly support your efforts and look forward to a time when the Nation is safer, and we never get back to what we once thought of as total freedom in this country, but certainly we can find, I think, a better balance in protecting those liberties I mentioned, at the same time decreasing the amount of danger.

Sometime ago, right after 9/11, I remember sitting in a hearing, and there was some discussion about those areas that seem to be pretty weak yet and would be an opportunity for the people who are going to do us some damage to attack, and having been a former private pilot myself, I thought at the time that we still had a weakness in general aviation.

PREPARED STATEMENT

We've done an awful lot when it comes to the commercial aviation. The number of bag screeners and the number of things that we have to go through I think has made it a lot safer, and when I mentioned I thought there was still a weakness in general aviation I got an immediate call from the ALPA complaining that I would make such a terrible statement, but as I read just recently in the paper, that is certainly one of the alerts that we're facing now, the possibility of people using private planes, since they don't have the same degree, at FBOs, of security that they do at the terminals, that there still may be a possibility of that, so I'm interested in knowing maybe a little bit more of that as we proceed with the discussions.

Thank you, Mr. Chairman.

[The statement follows:]

Prepared Statement of Senator Ben Nighthorse Campbell

Thank you Chairman Cochran. I'd like to thank the Under Secretary for taking the time to come talk with us today.

Security procedures in place prior to the tragic events of September 11th were obviously seriously flawed. While I realize that many steps have been taken to address these concerns, including the creation of the Department of Homeland Security, I wonder whether or not enough has been done. As I fly back to my home State of Colorado every weekend, and wait in line at the baggage screeners and walk through the metal detectors, I wonder if these procedures really ensure my safety.

We need to protect the 7,500 miles of land border, and 95,000 miles of shoreline, in addition to our nation's transit systems and energy and power infrastructures. This is imperative to our country's economy that is dependent on travel and the mobility of commerce. Additionally, the people of the United States deserve the ability to move about our nation in a safe manner. I believe that the TSA, Customs Service, Coast Guard, and other agencies in the Department have made great strides in improving our sense of safety since September 11, 2001.

I believe that we have made great advancements quickly by upgrading security procedures, response plans, and increasing security. There is no issue more important to me than the safety of the American people.

Again, thank you, Mr. Chairman. I look forward to hearing the testimony of our guest, and I will have a number of questions to ask at the appropriate time.

Senator Byrd. Mr. Chairman, the distinguished Senator is still a private pilot.

Senator Campbell. Yes, sir.

Senator Byrd. Of a Harley-Davidson.

Senator Campbell. Still have an airplane, too, just not current.

Senator Cochran. Senator Inouye.

Senator Inouye. Thank you very much, Mr. Chairman. I just wish to welcome Under Secretary Hutchinson. Welcome, sir.

Senator Cochran. Senator Hollings.

#### STATEMENT OF SENATOR ERNEST F. HOLLINGS

Senator Hollings. Thank you, Mr. Chairman.

Mr. Secretary, we have got a wonderful Border Patrol School down there now in Charleston. There was a heck of a contest in the midnineties when we had an immigration crisis and we were looking to train additional border patrol agents. Now some 6,000 have graduated. Over half of your border patrol agents are graduates of that school. One, they're not paid enough. Incidentally, in the school they have about a 30 percent to 40 percent dropout. There are about 55 in a class, and they have about 15 classes. They've got perfect facilities. They've got a driving range, they've got a rifle range and everything else down there, and they like it, but at \$27,000, a GS-7 trained in speaking Spanish, trained in law enforcement, trained in computer programs, they leave and come over to the airline security because they get more pay, so by the time I'm training them in Charleston, they leave to train for the air marshall's job because they pay more. Let's look at that, because I want to write something in that bill to equalize your different security folks so you don't train for one function and all of a sudden lose too many of them to another function in the same agency.

But it is an outstanding facility, and we invite you to come down and look at it, because we've got to expand the barracks facilities there to accommodate the increase in training.

But thank you very much. We look forward to your testimony.

Senator Cochran. Thank you.

Mr. Secretary, you may proceed.

#### STATEMENT OF HONORABLE ASA HUTCHINSON

Mr. Hutchinson. Thank you. Mr. Chairman and Senator Byrd, members of the committee, thank you for your welcome and your comments this morning. It is a pleasure to be with you to testify on the President's 2004 budget for the Border and Transportation Security Directorate of the Department of Homeland Security. It was just a couple of months ago that the Department brought nearly 180,000 employees from 22 different agencies together into one new Department. I want to express the thanks of the men and women of Homeland Security to this

committee for your support in this reorganization, and also for your support in the recently concluded operation, Liberty Shield. In our view, and as was stated by Senator Byrd, there is really not more of a serious job in all the land than stopping future terrorist incidents from occurring on American soil, and the Border and Transportation Security Directorate, along with the Coast Guard, really represent the operational front line of homeland security. We're the operations folks. We're the ones that not only play defense, but also offense. We're not alone in that effort. We have to rely upon our partnership with State and local governments, and part of my job is to make sure we enhance those partnerships, increase that coordination, and we're working very hard to do that.

Under the leadership of Secretary Ridge, we have already accomplished a substantial amount in terms of reorganization. We have unified our border efforts under the Customs and Border Protection Bureau. We have created the new Bureau of Immigration and Customs Enforcement that put our enforcement efforts under one chain of command that gives us a clearer focus, and the President's 2004 budget is the first complete new budget for the Department, and it is a good foundation for the future.

I believe it is important we develop sound management principles and meaningful performance measures as we enact budget levels, and we are working hard to do that. If I might just comment briefly on the 2004 budget. First of all, for the directorate, it is a broad and a very expensive mission. It is an enormous challenge that we face. Each year, more than 500 million persons, 130 million motor vehicles, 2\1/2\ million railroad cars, and 5.7 million cargo containers must be processed, screened, or inspected at or even before they reach our borders. Security decisions by our inspectors must be made within seconds, and we need to be right every time. That is difficult, and as Senator Hollings pointed out, sometimes they do not get paid what they get paid in the private sector, and so their commitment is very important.

The \$18.1 billion requested for this directorate by the President does provide for greater accountability for a more integrated border and transportation security organization. I know that sounds like boilerplate language, but that really is what I see as the responsibility of my directorate, and the uniqueness of this directorate is that we have the transportation and border agencies together, and we can enhance that integration and cooperation and exchange of information. We are increasing the security of our international shipping containers. The budget will allow us to continue implementation of the congressional mandates that have been wisely provided.

A few highlighted priorities in the budget. First, under the Bureau of Customs and Border Protection. It provides for an increase of \$1.7 billion over the 2002 budget, and this will allow us to support the Customs-Trade Partnership Against Terrorism program at a level of \$18 million, which increases the supply chain security and expedites the clearance of international commercial cargoes and conveyances. In the budget we're also providing for the enhancement of the Container Security Initiative, with \$62 million requested, which puts personnel in key international ports to examine high risk cargo

before it is placed in U.S.-bound ships. This is a very important part of our overall strategy at Homeland Security.

And then we have the capital improvements to our IT systems from the international trade data system to the automated commercial environment system, and if these requests are approved, it will be nearly \$1.1 billion that have been dedicated since 2001.

I am pleased also that there is \$119 million for nonintrusive inspection equipment. This allows us not to just simply flood the border with people, but provide security at our borders wisely with technology and with better systems.

As was mentioned, the budget also supports continued implementation of the comprehensive U.S. VISIT system. The goal is to track the entry and exit of visitors to the United States. It provides for \$100 million in new resources, for a total of \$480 million. This is an important objective that the Border and Transportation Security Directorate will engage in over the next couple of years.

When it comes to the Immigration and Customs Enforcement arena, it has 14,000 employees, and a budget of \$2.8 billion, which is a 16 percent increase over 2002. It will allow us to support our investigative activities, including immigration fraud, smuggling of illegal aliens, international money laundering, export enforcement, forced labor, trade agreement investigations, smuggling of narcotics, weapons of mass destruction and other contraband, illegal transshipment, and vehicle and cargo theft. That is a broad mandate for an investigative agency, but we will be prioritizing and working in those broad arenas. The budget will allow us to continue our traditional roles as well as enforcement of all of our immigration laws.

The Transportation Security Administration has done a good job in increasing the professionalism of our screeners, and I am proud of the job that they have done. The budget requests \$4.8 billion for TSA, \$2.4 billion of that will be offset by collections from aviation passenger security fees and airline security fees. Collection of these fees will be suspended from June 1 to September 30 of this year, in accord with the provisions of the Emergency Wartime Supplemental Appropriations Act.

The total request, \$4.3 billion, supports direct aviation security activities, including a professionalized passenger and baggage screening workforce and additional equipment to prevent weapons and other contraband on the aircraft. We will also be reimbursing our State and local law enforcement agencies for their work in providing now roving patrols and supporting our screeners. We will be funding the Federal Air Marshal Service and, in addition, enhancing our cargo and passenger screening methods and increasing our use of technology.

One of the important new initiatives is the transportation worker identification credential, or the TWIC, that will allow us to have more security background checks of our transportation workers, and create a credential that will allow them to have access to various transportation security facilities.

We also have the Office for Domestic Preparedness and the Federal Law Enforcement Training Center. Both are essential for

training first responders, training of our Federal law enforcement agencies, and I am pleased and proud of the work that they are doing.

PREPARED STATEMENT

Finally, our directorate supports, through our operations, the President's national strategy for homeland security. This is a benchmark and a framework for our enforcement responsibilities. We want to be able to manage our responsibilities in coordination and integration with all of our Federal partners and our State and local efforts. These are the two benchmarks that guide us as we work in the Border and Transportation Security Directorate.

Thank you for your support. I look forward to your questions.

[The statement follows:]

Prepared Statement of Asa Hutchinson

Introduction

Good morning Chairman Cochran, Senator Byrd, distinguished members of the Subcommittee. It is a pleasure to be with you today, and I am pleased to be here to discuss the President's fiscal year 2004 budget request for the Department of Homeland Security's Border and Transportation Security (BTS) Directorate and its component organizations.

Just a couple of months ago, the Department of Homeland Security brought nearly 180,000 employees throughout the Federal Government together into one agency. I am grateful for the focus and support Congress provided in creating the Department, and I also wish to thank you for recently providing critical supplemental resources to support the Department's efforts in Operation Liberty Shield and the brave men and women serving in our military during this challenging time.

The President's National Strategy for Homeland Security provides the framework for mobilizing and organizing the nation--the Federal Government, State and local governments, the private sector, and the American people--to undertake the complex mission of protecting our homeland. It makes the Department's strategic objectives abundantly clear: prevent terrorist attacks within the United States, reduce America's vulnerability to terrorism, and minimize the damage and assist in recovery should a terrorist attack occur.

There is no more serious job in all the land than stopping future terrorist incidents from occurring on American soil. This is especially true in light of recent world events. The Border and Transportation Security Directorate, along with the U.S. Coast Guard, serves as the front line operational force for the Department in achieving its objectives. But we are not alone in this effort. The President, Secretary Ridge, and I fully understand that our partnerships with State and local governments are critical for ensuring the success of our mission.

Under the able leadership of Secretary Ridge, the BTS Directorate has already taken significant steps forward. We have reorganized the BTS Directorate's nearly 100,000 employees to unify border and transportation security activities, integrate our front line operational forces, and yet preserve the expertise and functional relationships BTS employees have developed over the years.

This has resulted in the creation of two new bureaus within BTS. The inspection and border patrol functions of the former U.S. Customs and Immigration and Naturalization Services, and the Agriculture Plant Health Inspection Service now reside in the new Bureau of Customs and Border Protection (BCBP). The investigation and enforcement functions of those agencies, along with the Federal Protective Service, now reside in the new Bureau of Immigration and Customs Enforcement (BICE). We have also brought first responder resources in the Office for Domestic Preparedness (ODP) to improve assistance to our State and local partners as they do their part to protect the homeland.

The fiscal year 2004 budget is the first ever for the new Department and the Bureaus of Customs and Border Protection (BCBP) and Immigration and Customs Enforcement (BICE). It is the foundation on which the Department and the BTS Directorate will be built. In laying this foundation, we have a valuable opportunity to develop sound management principles and meaningful performance measures. We will use these principles and measures to guide our efforts and gauge our progress in carrying out the President's Management Agenda.

#### Budget Request for fiscal year 2004

In his fiscal year 2004 budget, the President requested \$18.1 billion, including fees, and roughly 108,000 full-time equivalents (FTE) positions for the Border and Transportation Security Directorate. The request reflects the Administration's commitment to the mission and priorities of the Directorate.

The Border and Transportation Security Directorate secures the nation's borders, transportation systems, points of entry, and points in between. This includes nearly 7,500 miles of land border, 95,000 miles of shoreline and navigable rivers, and our Nation's airports, highways, rail, maritime, pipeline, and transit systems. This Directorate is responsible for preventing the illegal entry of people or goods, while at the same time facilitating the unimpeded flow of legitimate commerce and people across our borders and throughout the national transportation system. This presents an enormous task. Each year more than 500 million persons, 130 million motor vehicles, 2.5 million railcars, and 5.7 million cargo containers must be processed, screened, or inspected at, or even before they reach, our borders.

The \$18.1 billion requested by the President for the BTS Directorate will: provide greater accountability through an integrated border and transportation security organization; create smart borders that are more secure; increase the security of international shipping containers; continue implementation of the Aviation and Transportation Security Act of 2001, the USA PATRIOT Act, and the Maritime Transportation Security Act; and ensure that our Nation's first responders are trained and equipped to address the threat of terrorism through efforts consolidated in the Office for Domestic Preparedness.

The following sections detail the budget requests for the Border and Transportation Security Directorate components.

The Bureau of Customs and Border Protection brings together approximately 42,000 employees including 11,000 Border Patrol Agents, and 19,000 inspectors from the Agriculture Plant Health and Inspection Service, and the former Immigration and Naturalization and U.S. Customs Services, including canine enforcement officers. The Bureau focuses its operations on the movement of goods and people across our borders to prevent the illegal entry into the United States of people or goods at or between ports-of-entry while facilitating the movement of legitimate trade and international travel.

The budget includes \$6.7 billion for the Bureau of Customs and Border Protection, an increase of \$1.7 billion (33 percent) above fiscal year 2002. These resources will support the Customs-Trade Partnership against Terrorism (C-TPAT) program, which increases supply chain security and expedites the clearance of international commercial cargoes and conveyances. It also supports the expansion of programs such as the Container Security Initiative, which puts personnel in key international ports to examine high-risk cargo before it is placed on U.S.-bound ships. The request funds the International Trade Data System (ITDS) and the Automated Commercial Environment System (ACE), two capital projects for which, if the request is approved, nearly \$1.1 billion will have been dedicated since fiscal year 2001.

The Bureau of Customs and Border Protection will ensure compliance with customs and immigration laws, determine the admissibility of persons to the United States, and prevent the admission of terrorists and other criminals. The Bureau will also focus on deterring illegal crossings, seizing illegal drugs, currency, and monetary instruments, processing \$1.2 trillion in imports, and collecting \$20 billion in duties on the same, while inspecting 147 million vehicles and more than one million aircraft. The budget also supports continued implementation of the comprehensive U.S. VISIT system to track the timely departure of visitors to the United States.

The Bureau of Immigration and Customs Enforcement brings together the enforcement and investigative arms of the former Customs and Immigration and Naturalization Services, and the Federal Protective Service. The reorganization involves approximately 14,000 employees, including 5,500 criminal investigators, 4,000 employees for immigration and deportation services and 1,500 Federal Protective Service staff. The Bureau will address the full range of immigration and customs laws within the United States, in addition to protecting specified Federal buildings. The air and marine enforcement functions of the former Customs Service will also be a part of this Bureau.

The fiscal year 2004 request for the Bureau of Immigration and Customs Enforcement (BICE) includes \$2.8 billion, an increase of nearly \$400 million (16 percent) above fiscal year 2002. Nearly \$1.1 billion of this amount will support investigative activities, including immigration fraud, smuggling of illegal aliens, international money laundering, export enforcement, forced labor, trade agreement investigations, smuggling of narcotics, weapons of mass destruction (WMD) and other contraband, illegal transshipment, and vehicle and cargo theft. Furthermore, the budget will continue our ability to apprehend, detain and remove illegal aliens, and strengthen visitor and immigrant arrival and departure control by facilitating timely enforcement actions against violators. These funds will also reduce infrastructure vulnerabilities, promoting safe and secure Federal properties for both employees and visitors.

The Transportation Security Administration (TSA) continues its mission to protect and secure our nation's transportation systems, while ensuring the unencumbered movement of commerce and people. The President's budget requests \$4.8 billion for TSA, approximately \$2.4 billion of which will be financed by offsetting collections from aviation passenger security fees and airline security fees. Collection of these fees will be suspended from June 1 through September 30, 2003 in accord with the provisions of the fiscal year 2003 Emergency Wartime Supplemental Appropriations Act, with collections renewed on October 1, 2003.

Of the total request, approximately \$4.3 billion supports direct

aviation security activities, including a professionalized passenger and baggage screening workforce, and supporting equipment to prevent weapons and other contraband on aircraft. The budget also supports reimbursement to State and local law enforcement agencies, funding for the Federal Air Marshal Service to provide in-flight security, and it supports improvements in both air cargo and passenger screening methods and technology to reduce security risks.

The request for TSA includes funding for new air cargo security and armed pilot initiatives, and it supports TSA's work to develop and implement security standards for non-aviation modes of transportation. Furthermore, it will advance the TSA's work on the Transportation Worker Identification Credential (TWIC) initiative.

The Office for Domestic Preparedness will strengthen the readiness capabilities of State and local governments that play a critical role in the Nation's ability to prepare for and respond to acts of terrorism. ODP will manage the Department's First Responder initiative, providing grants for preparedness. ODP will award \$3.5 billion to States to address the equipment, training, planning and exercise needs identified in their updated response plans. These State plans strategically outline goals and objectives for preparedness, State and local enforcement anti-terrorism initiatives, and Citizen Corps preparedness activities. ODP will also continue supporting a number of unique training facilities, and provide technical assistance for State and local planning efforts.

The Federal Law Enforcement Training Center (FLETC) will continue to serve as a leading Government provider of high-quality law enforcement training to Federal, State, and local law enforcement officers. The fiscal year 2004 budget request for the Federal Law Enforcement Training Center is \$146.1 million, including capital acquisitions. With these funds, FLETC will provide cost-effective and contemporary law enforcement training, support the specialized training needs of State, local, and international agencies, and deliver preventive and investigative law enforcement methodologies and terrorism training.

#### Conclusion

The budget request for the Department of Homeland Security's Border and Transportation Security Directorate supports the President's National Strategy for Homeland Security, which is the framework for mobilizing and organizing the resources of the Federal Government, State and local governments, the private sector, and the American people to accomplish our unwavering and complex mission to protect the homeland. We have a good start on this work, but we are only at the beginning of what will be a long and difficult road. Many challenges lie ahead.

The fiscal year 2004 budget request provides the resources to enable the Border and Transportation Security Directorate to manage its responsibilities and continue its work to secure the homeland to protect and serve the American people. We are committed to preventing terrorist attacks, reducing America's vulnerability, and responding to and recovering from attacks that occur. I look forward to continuing to work with you to successfully accomplish these objectives.

Mr. Chairman, Senator Byrd, and Members of the Subcommittee, this concludes my prepared statement. I would be happy to answer any questions you may have at this time.

Senator Cochran. Thank you, Mr. Secretary, for your statement. The other day we had the Secretary of the Department of Homeland Security, Tom Ridge, before our committee talking about the overall budget request for the Department and the challenges that face him and the President and all of you who are responsible for the individual directorates and carrying out the responsibilities of the Department of Homeland Security Act.

I wonder, as we celebrated the first 100 days just recently of the creation of this new Department, what you view as your most challenging responsibilities. You have had experience in other Federal offices, specifically the Drug Enforcement Administration, heading up that office. Tell us what your most difficult and challenging moments have been as Under Secretary.

Mr. Hutchinson. Well, thank you, Mr. Chairman, and it has been challenging. I think any time you are setting up a new organization there exists an incredible organizational challenge. You overlay that with being in the Government, and then you overlay that being in a high threat environment, and our hostilities in Iraq enhanced our operational challenges, and so all of that together combined for a very challenging start.

I have been pleased, quite frankly, with the momentum for the merging of the cultures between the 22 different agencies, and I think the reason we are having a better time than other Government reorganizations is because there is really a strong commitment to the homeland security effort. It gives our employees a tremendous sense of pride to be a part of this Department.

#### STAFFING

Senator Cochran. Has there been a very high turnover in the offices, particularly the principal offices of leadership in the enforcement agencies and the inspection services that now come under your jurisdiction? Have you had to go out and find new people to hire, or are you bringing over a lot of folks who worked in the offices and were in charge before the new Department was created?

Mr. Hutchinson. Senator, it has not been a particular problem with attrition or being able to recruit top-quality executives or middle-level management for the work we are doing. I think when you saw TSA created a couple of years ago, I was at the DEA at that time, and you saw a lot of changeover in Federal law enforcement. There was a lot of attraction to that new mission. There were some competitive advantages to TSA as they set up. I think the dust has settled since then, and stabilized in our Federal law enforcement workforce. We have people really knocking on our doors because they want to be engaged in this tremendous new mission, so I don't identify that as a problem.

Senator Cochran. There is a specific amount in the budget request for you to hire employees and to staff up your own office. Have you completed that work now, and to what extent is the budget request sufficient to provide you with the number of employees in your office that you need to carry out your

responsibilities?

Mr. Hutchinson. Well, in the 2004 budget request for my operational team at the Under Secretary level it will be a part of the overall Department management budget, and in my judgment it has been adequate thus far. I believe it is adequate for the 2004 time frame.

We have budgeted for, I believe it is 67 personnel in the Under Secretary's Office. That is relatively small number to oversee 110,000 employees in the different agencies, but I think it is wise not to start up with a huge bureaucracy. We have detailed people from different agencies as part of that 67 in the near term. That gives us support, and with the allocation we have I think that we've got a good team that we're putting together for that purpose.

#### STATE OF READINESS IN PORTS

Senator Cochran. I know that when you mentioned the hiring of port directors, you've been traveling around the country meeting and getting to know some of the people that are in these offices throughout the country, including recently in our neighboring city of New Orleans. What do you consider to be the state of readiness to protect the security of our Nation's ports at this point in time?

Mr. Hutchinson. Well, first of all it is much improved, as compared to prior to September 11. We have made enormous strides and progress with our ports. There has been an increasing number of ports that have done vulnerability assessments. That is an ongoing process. In addition, the information systems have improved, where the inspectors on the front line have access to more databases to check cargo and people, and it has been a partnership with the private sector. They have invested a substantial margin in the security of our ports. We have a greater distance to go in the future, but I believe that the personnel are ready and the systems are getting into place.

When I was there in New Orleans I saw some from your State, Biloxi, that came over, doing an outstanding job there, so I think that the state of readiness is good.

Senator Cochran. Senator Byrd. I am prepared to yield to you, sir.

#### TRANSPORTATION SECURITY ADMINISTRATION RESOURCES FOR MARITIME AND LAND SECURITY

Senator Byrd. Well, thank you, Mr. Chairman.

Mr. Secretary, you have referred to the \$4.8 billion TSA budget. Only \$86 million is requested for maritime and land security activity while over \$4.3 billion is requested for aviation security. This means that less than 2 percent of your transportation security budget request is for maritime and land security, less than \$1 in \$50. In fact, the budget request for administrative costs associated with TSA headquarters and mission support centers, \$218 million, is two-and-a-half times greater than the request for maritime and land security. How do you explain that?

Mr. Hutchinson. Well, Senator, of course, subsequent to

September 11 and really prior to that there was a great focus on airport security, airline security. Much of that was--of course, all of that was based upon a mandate from Congress to have 100 percent checked baggage inspection, as well as screening of each passenger, so that's where the emphasis has come from. But as you noted, the TSA has a broader mandate than just airline security, and we are moving in that direction.

I don't think we treat every mode of transportation the same. Whenever you're looking at rail, we want to act on best practices with strong relationships with the modal administrations at the Department of Transportation, so we are mindful of our responsibility there. We are moving forward with stronger efforts in the other modes of transportation, and we will do it based upon threats and the vulnerabilities that we assess.

Senator Byrd. All right. You have introduced my next question, and you've partially answered it. Why has more funding not been requested for other, equally important modes of transportation?

Last month, Secretary Ridge provided the committee with a written statement of his priority guidelines for addressing vulnerabilities to another terrorist attack. He included attacks on confined spaces, such as rail and air transportation systems, that could be used to spread contamination. He expressed concern about catastrophic economic damage that could come from an attack on transportation systems and on petroleum facilities at our ports, and, yet, the request for adequate resources is not there. We've concentrated on the \$4.3 billion requested for aviation security.

I'm all for that, but, the budget request for administrative costs associated with TSA headquarters and mission support centers is two-and-a-half times greater than the request for maritime and land security. Are port and maritime security lower priorities? They must be. Why? Is it because there hasn't been a terrorist attack here yet? The terrorist track record is to exploit vulnerabilities. The first attack on the World Trade Center used truck bombs.

The attempted millennium attack in Washington State sought to exploit our porous borders. The 9/11 attack used airplanes. I think we should have learned from this track record to address all of our vulnerabilities, and not just those that the terrorists have used most frequently.

#### PRIORITIES IN TRANSPORTATION SECURITY ADMINISTRATION BUDGET

Senator Byrd. Mr. Secretary, why is the security of our ports, why is the security of our bus and subway systems, why is the security of our rail systems, Amtrak, for example, why do they have such a lower priority in your budget?

Mr. Hutchinson. Well, you're absolutely correct that we have to address the broad range of vulnerabilities in our transportation systems. Whenever you look at the airlines, we responded both to vulnerability but also an incident, and now we're conducting assessments, and it is important to conduct these assessments of the vulnerability of our transportation system so we know exactly how we're spending our money and where it should be invested.

In the 2004 budget, \$62 million is requested for the Container Security Initiative assessments. This also is an important part of our efforts to provide, both from the private sector and with our taxpayer partnership, greater security efforts in our ports. When it comes to other areas of critical infrastructure, we have the Directorate of Information Analysis and Infrastructure Protection. This directorate has requested \$500 million to go toward critical infrastructure protection, and this has the broader arena of infrastructure.

Part of it will be in the transportation sector, part of it will be in the petroleum or the energy sector, and there will be other aspects of critical infrastructure that have to be protected, so we'll go through the assessments, and then we will be assigning the responsibilities for the protection based upon those vulnerabilities.

Senator Byrd. It appears to me from what you've said that you feel that the budget requests are inadequate. What would be an adequate request, in your judgment, to meet these vulnerabilities about which you have spoken?

Mr. Hutchinson. With due respect, Senator, I believe the 2004 budget request is appropriate. I think it is important not to measure success simply by the dollar amounts that are invested, but also by the strategy that is being implemented, and I think it is an appropriate strategy to logically go through the evaluations and the assessments and then put the money where the threats and greatest vulnerabilities are, so clearly down the road there is going to be additional money that is needed, but in terms of the 2004 budget, I think it is a correct strategy and the right amount to complete these assessments.

Senator Byrd. How much did you request at the OMB level for these items?

Mr. Hutchinson. I do not have that figure as to that discussion.

Senator Byrd. You don't know what you requested at the OMB level?

Mr. Hutchinson. I do not have that in front of me, sir.

Senator Byrd. Will you supply it to the committee, please?

Mr. Hutchinson. We will be glad to look at that and get the information to you.

Senator Byrd. You will be glad to supply that information to the committee?

Mr. Hutchinson. Provided there are not any issues there that I am unaware of at this time in terms of the communications that we had with OMB, but we will certainly want to support your request for that information and be able to answer you appropriately.

Senator Byrd. Well, you have fuzzed up that response. I've been in Congress now more than 50 years, and I know when an answer, is a solid, firm, straightforward answer, and when it is not. So, please supply that information to this committee. It's our business to try to fund the needs to protect the people of this country, and on the basis of your testimony, I think that the budget request is inadequate. So, will you please supply that information so that this subcommittee can respond in an adequate fashion, as we are here to do and want to do? Do you understand that?

Mr. Hutchinson. I understand, and will be happy to respond to your question.

[The information follows:]

A separate line item was not included in the fiscal year 2004 TSA budget for these items. Rather, budget requirements to address these needs and similar requirements across all sectors of the Department of Homeland Security were consolidated under the Directorate for Infrastructure Analysis and Infrastructure Protection.

The budget requests that agencies send to OMB are part of the Executive Branch's deliberative process for developing the President's Budget submission to Congress. The longstanding Executive Branch position has been that agencies are to preserve the confidentiality of these internal deliberations and not release the funding requests that they send to OMB.

#### COAST GUARD GRANTS FOR PORT SECURITY

Senator Byrd. I will just finish with one more question. The Coast Guard has estimated already the cost of improving port security at \$1.4 billion for fiscal year 2004, and there are no dollars, none, in the budget request. Do you want to comment on that?

Mr. Hutchinson. Well, an assessment was done by the Coast Guard. Obviously, when you look at needs for port security, part of it is borne by the private sector. A substantial part of that they are investing. In addition, we again are providing money to complete the assessments, and there are some grants that are available through TSA that would be broader than simply an assessment that would be grants for improvement of security.

Senator Byrd. Mr. Chairman, I have further questions, but I will wait.

Senator Cochran. Thank you, Senator Byrd. Senator Campbell.

#### OFFICE FOR DOMESTIC PREPAREDNESS GRANT-MAKING PROCESS

Senator Campbell. Thank you, Mr. Chairman. I have about, maybe 10 questions. Some of them I will submit in writing, too, with your permission.

The portion of your budgets dedicated to managing the Department's first responder initiative providing for grants for preparedness, I think my office is like many of them here, and that is we have some disparity about how it ought to be administered at the State level. It seems like every town, at least major-sized towns in my State, would like to have their own Homeland Security office and their own network, their own system, and the States would prefer it go through the States. Could you explain very quickly how the process that's in place now, how it awards the grants?

Mr. Hutchinson. Yes, Senator. The broad overarching principle is that we want to go through the State Homeland Security directors to channel the money flow to the first responders at the local government level, and the reason is that we want to make sure that a security response is highly coordinated, that there is a multijurisdictional response to any terrorist incident or the planning for it. The only way to

do that is to have a State coordinating body that will make sure that the local entities are coordinating and moving in the same direction.

Senator Campbell. So the grant is given to the State and they, in turn, disseminate it to communities as they see fit?

Mr. Hutchinson. That is correct. Now, in reference to the most recent supplemental that was provided, over \$2.2 billion, the bulk of that will go through the States, but Congress wisely put on a requirement that it has to go from the States to the local governments within 45 days. Sometimes in the past it has stayed there too long, and so that 45 days will move it in a more quick fashion to the local governments. There will be pressure from the bottom, and we will be putting pressure from the top.

You also allowed, I think it was \$10 million at least, for technical assistance, so ODP will be providing more technical assistance to the States to help them to get that money out to local governments. We recognize how important it is to get to the local governments. We are going to be working to accomplish that, but still, it's important to run that money through the State for coordination purposes.

Senator Campbell. Okay, thank you.

#### EMERGING TECHNOLOGIES RELEVANT TO BORDER AND TRANSPORTATION SECURITY

There must be literally dozens of groups who have already come to you, and certainly they have come to us, that have some kind of a new, sophisticated technology that they think should be in the mix somewhere in trying to provide better security, particularly on airlines. I saw one about 6 months ago that was--I'm not a really high tech person, and it kind of amazed me. It was a very tiny monitor that could be put literally anywhere in the plane, in the cabin of the plane, and you almost couldn't see it. It was just like a little, small eye, and it was coupled with a screen on the ground so people on the ground at the appropriate agencies could actually watch what was going on inside the cabin of the plane and could communicate with the people on the ground, too. I thought that was really pretty advanced.

Is there a process now in place in which these new emerging technologies, which are often done by very small groups around the country, is there a process in place now where they can get into the system and show their wares and have someone evaluate it?

Mr. Hutchinson. Yes, there is, and I was pleased that one of the directorates created at Homeland Security is the Science and Technology Directorate, which is--I equate it to an R&D shop in private industry, and Dr. Chuck McQueary, does an outstanding job there, and as we see either new emerging technologies or maybe even existing technologies in the private sector that may have an application for border security or transportation security, we will ask them to evaluate it, to test, pilot it, to see if it can work on the border, or we might give them an idea that they will go out in the private sector and solicit bids for a particular project.

So they do the evaluation, the piloting of it, we do the request, and then the implementation of it if it does have that

application. I have encouraged those in private industry to check our Web sites. They have ways in which they can present their ideas to Homeland Security.

Senator Campbell. And along that line, before 9/11 there was very little way to be able to communicate from the air to the ground, other than the normal channel to the tower, and the air marshals, do they have a way of communicating with the ground now, when they are on the airplane, and by the way, if there is something you shouldn't say in public, or before the committee, that's fine.

Mr. Hutchinson. Senator, let me get back with you on that answer, if I might.

[The information follows:]

Pursuant to House Conference Committee Report 107-593, TSA's Federal Air Marshal Service (FAMS) was provided \$15 million to begin implementation of an Air to Ground Communications program. TSA intends to utilize this funding to purchase a Commercial Off-the-Shelf (COTS) product, which includes hardware and software, for implementation of the Air to Ground communications system. This initial system will allow FAMS to utilize a portable, quickly deployable air to ground communications system which will seamlessly integrate existing FAMS wireless technology. This comprehensive wireless communications system may also be used by other local, State, and Federal agencies, and the Department of Defense, to achieve secure communications through a dedicated law enforcement network.

#### MONITORING UNTENDED AIRSTRIPS

Senator Campbell. I mentioned in my opening statement, too, one of the weaknesses I saw, which raised some hackles of private aviation, but I know that there are literally hundreds and hundreds of runways around the country, many of them paved, by the way, that are on the FAA maps, but there's nobody around. They're just, literally abandoned.

I know of two just within a few miles of my own home town, in fact, no towers, no FBOs, nothing on it, where people could land, and certainly the drug runners know most of these airports, and they are the ones who are using them.

Is there anything that we are doing to catalog them, or monitor them, do something so that they would be less attractive as a place to put explosives on a private plane, as an example?

Mr. Hutchinson. Well, there are a couple of things that we're doing. First of all, the general aviation industry has been very supportive in terms of, if they see something that is suspicious, they report that. We had a number of different reports that we've investigated based on their information, so they're really our eyes and ears out there if they see something strange or get an unusual request. The general public obviously is helpful.

We have in the Bureau of Immigration and Customs Enforcement the Air and Marine Division, in which we monitor aircraft, in conjunction with other agencies that might be coming into our country. We, during Operation Liberty Shield, deployed many of those air assets to the Northern border. That helps us to track pilots that are unaccounted for, or might be

operating under suspicious circumstances.

So a combination of our own intelligence and law enforcement activities on the ground with our monitoring of our border air security gives us a pretty good idea of what's going on in that arena.

Senator Campbell. Well, good luck in that arena, because I just think there's a huge weakness there yet.

#### PRIVATIZING AIR TRAFFIC CONTROL

Recently, President Bush issued an Executive order that deleted a clause in a previous order signed by President Clinton that described air traffic control as an inherently governmental function. The administration, this administration has proposed studying whether to hire a private company to take over the air traffic control system. What effect would that have? Do you think it would solve any problems, or would it help the current system, or hinder the current system?

Mr. Hutchinson. If there were private contractors for air traffic control?

Senator Campbell. Yes.

Mr. Hutchinson. I really wouldn't be in a position to comment from an expert standpoint on that. Obviously, we look at the private sector where appropriate. That is one that has to be closely integrated and we have to be careful about, but I would wait for the comments from the FAA before I would want to submit my own comments on that.

Senator Campbell. Thank you, Mr. Chairman.

Senator Cochran. Thank you very much. Senator Inouye.

Senator Inouye. Thank you very much, Mr. Chairman.

#### FURLoughing of AIR PASSENGER INSPECTORS

Mr. Secretary, recently TSA issued hundreds of yellow slips throughout the system, many to recently trained inspectors. Does that reflect itself on the budget, because I noticed, personnel, you have increased it?

Mr. Hutchinson. It does, and the reason for that was twofold. One, there is a cap on the number of employees. This reduction, or right-sizing, as Admiral Loy calls it, will bring the screener workforce down to 49,000, and then secondly, there naturally needs to be an adjustment out there for efficiency purposes. The organization stood up very quickly. Not all of our personnel were allocated in the right way. We have to adjust it to allow for the traffic flow. There is going to be a reduction of 6,000, I think, in the next 6 months. It will be phased in.

About half of those will happen through normal attrition. Others will be done through performance evaluations. There is some accommodation for those that have to be moved, so Admiral Loy is working closely with the workforce on that and with the management at TSA to do this in the best way, but it's something that was necessary from a budget standpoint and a management standpoint, and in answer to your question, it does save hundreds of millions of dollars by this reduction in force.

Senator Inouye. Do you have similar caps in other areas?

Mr. Hutchinson. In other areas of Homeland Security?

Senator Inouye. Yes.

Mr. Hutchinson. No. That is the only statutorily mandated limitation on numbers. Of course, others are fixed in terms of the amount that could be used for personnel, but that was a unique circumstance in which we had to stand it up so quickly. There was a limitation that was placed on it, and that is the only one that, because of budget constraints, TSA is the only one that had to do a right-sizing of the workforce.

Senator Inouye. Thank you very much, Mr. Chairman. May I submit my other questions?

Senator Cochran. Senator, thank you. Certainly, and we hope you will be able to respond, Mr. Secretary, to the written questions within a reasonable time.

Mr. Hutchinson. I would be pleased to do so.

Senator Cochran. Senator Hollings.

#### PORt SECURITY

Senator Hollings. Mr. Chairman, on Senator Byrd's question of your request to OMB, add how much OMB cut your request, will you, please?

Mr. Hutchinson. I will add that to the request.

Senator Hollings. And this is friendly, because I'm with you, and I want to work with you, but you're way behind the curve when you intimate that, for example, the port security assessments are on course, and that security at ports is good. Let me--harken the actual facts.

When we passed the port security bill in the United States Senate, it wasn't just an estimate. That was a determination of \$4\1/2\ billion, and \$1.4 billion immediately. That was voted on by every Republican and every Senator, 100 to nothing. When we got over on the House side, they bucked all year long, and we had to finally compromise just making an authorization bill in November.

Again, in the emergency supplemental we had a billion in there that we could spend during the rest of this fiscal year. I know Senators, Republican Senators that wanted to cosponsor, wanted to vote for it, and word came from the White House, don't vote for that. There's no money.

And when you intimate that money could come from the private sector, it won't come from the private sector. It won't even come from the public. Working with these folks you learn quickly, they don't want security. The name of the game at the port is to move it as fast as they possibly can, and so they're in competition, and they just cross their fingers and say, well, they'll blow up Houston, or they'll blow up Philadelphia, they won't come to mine, and I'm not going to spend my time and money on that particular story, and incidentally the law says the captain of the port is in charge of security, which means you, Mr. Secretary, the buck stops with you. We need that money. We need it right away.

We do not have--for one, you testified, the transportation worker identification credentials. That's supposed to be available next month, in June, and these truck drivers coming on the port facility, they don't have credentials. They can't enforce it now, but that's what we said last year, that by June

of this year we would have a card that you had approved in the Department of Homeland Security, and that Department would issue it, and then everybody would have an identification card.

We have virtually no security whatever. I can identify every plane that approaches the coast of the United States. I cannot identify every ship. Now, we made the shipowners provide transponders, but we do not have the money for the channel towers. It just came out the other day when Secretary Ridge was here, and he testified that we don't have that money yet. You've got to get your Department on top of this particular problem, because Osama bin Laden has got 10 vessels that he owns. He used a rust bucket to go into Mombasa, the port of Kenya, to blow up U.S. Embassies in Nairobi and Tanzania, and they could come up to Houston, or come up the Delaware River.

They could come up on, not on one of those rust buckets, they could take over--like they did the planes, they could take over an Exxon tanker coming right up there, throw the captain overboard and run it into the tank farm there, blow the whole thing. That would close down the eastern seaboard for several months--we've got Booz-Allen studies. All of this has been, not just estimates, but studies showing the tremendous danger that we're in, but to come to say, we're on course and the port security is good? I want to work with you and get on with that. We need the money now, and your budget doesn't call for it.

Otherwise, there's been an ongoing, trying to get an additional 500 Customs agents. We debated an old textile bill back when President Reagan was in. I tried to get the 500 there. Then when we debated another bill, NAFTA, in 1994--he is now the ranking member of the Budget, but Congressman Spratt, that you know very well, he voted for NAFTA on the promise that he would get 500 Customs agents. He hasn't gotten them yet.

Now we go to the Customs agency and say, look, you say the \$5 billion in train shipments in violation of textiles, and the agent looks at you and says, Senator, you want me to check drugs or do you want me to check textiles? He said, I'm checking drugs as best I can. Now, the agent says, excuse me, I'm checking terrorists, then I'm checking drugs, then I might get to your textiles, so you're way behind the curve on Customs agents, so I just suggest that you get on top of that.

I see according to my news reporter here on the right we're getting rid of Mitch Daniels in 30 days.

Senator Leahy. Hallelujah.

Senator Hollings. Hallelujah is right. Let's get the money and get on, because you're the one that's going to be in charge. The buck stops there.

I appreciate you've got a difficult task, and a lot of old things like the Customs things and identification card and the Port Security money. The money hasn't been there on rail security, it's not there on port security.

Mr. Hutchinson. Senator, I just want to thank you for your comments. You have been a very constructive partner in this, and I take your admonitions very seriously, and I certainly do not mean to represent that everything is perfect in the security realm. We understand the many challenges that we face.

Senator Hollings. Your problem is money, and let's get it out of that crowd.

Mr. Hutchinson. Thank you for your comments, Senator.

Senator Cochran. Senator Leahy.

Senator Leahy. Thank you, Mr. Chairman. I checked--any further news? I'm so tempted to say something, but I'm not going to do that. I don't get the Arkansas wire here.

Mr. Hutchinson. You're a wise man.

Senator Leahy. I only get the Vermont political wire.

Mr. Hutchinson. I'm staying right where I am.

I think.

#### RESTRUCTURING OF IMMIGRATION AND CUSTOMS

Senator Leahy. Let me ask you a question. You and I have known each other and worked with each other for years, and I am thinking back to when you testified before the Judiciary Committee in March, and I asked you to make good use of the excellent former, now former INS employees from Vermont that you inherited. Vermont is home to the administrative offices for the INS that provides oversight administration for much of the eastern half of the United States. I mention them because the workers have always received the highest rankings for their work and efficiency, and most have felt it was a good bang for the buck, and you told me it was essential to get the facts and to communicate with them clearly.

Now, since that testimony, the former INS and Customs employees of Vermont still want to know what the restructuring means to them. Of course, some confusion is inevitable. I was looking at the organizational chart of the Department of Homeland Security. It's a pretty daunting one, so could you tell me what is the current state of restructuring for the Bureau of Immigration and Customs Enforcement, and how will that command structure differ from what the INS now has?

Mr. Hutchinson. Thank you, Senator, and first of all the Law Enforcement Service Center in Vermont does an outstanding job. Mike Garcia, the Acting Assistant Secretary in charge of ICE has been up there. I'm also aware of how critical a role they play in providing local law enforcement with information on alien absconders and other issues that they have to confront, so I'm very impressed with the work that they do in terms of our organizational structure with Immigration and Customs Enforcement. I call it ICE.

This Bureau came into Homeland Security by simply linking the chain of command at the top, and so you had your immigration enforcement and you had your Customs enforcement. They just came up to the top. Now we're bringing those middle management structures together, and we're going to be moving forward in the next couple of weeks. The management of Immigration and Customs Enforcement is ready for this unified leadership change. I do not see that this impacts the enforcement services there in Vermont. We do not plan to reduce the staff there. They're doing an outstanding job, and they're very needed in this mission, and they will remain a critical part of Immigration and Customs Enforcement.

#### LEADERSHIP ISSUES IN REORGANIZATION OF BORDER SECURITY AGENCIES

Senator Leahy. Thank you. I was just wondering. I don't envy you having to do this, but you have to integrate the old

INS, Customs, other agencies into the Bureau of Customs and Border Protection. If you've got overlapping personnel and administrative support staff and so on, how do you determine who takes the lead? Who is in charge? I mean, ultimately you are, I understand, but to make it function, how do you determine that?

Mr. Hutchinson. Well, it is a challenge whenever you're looking at whether it's immigration enforcement director or Customs traditional enforcement, SAC, that takes the lead, when you bring the management structure together you look at their experience, you look at their grade level, and things like that, put an interim person in charge. Then you will go to a merit-based selection process where everybody can present themselves for that, so it's a process we're going through that's working fairly smoothly.

The biggest challenge is with the services side and splitting things off there, because you had support functions that supported both the enforcement side as well as the services side, as well as the inspection side, and so you've got some blend. That's more difficult to split, but Commissioner Bonner, Mr. Garcia, and Eduardo Aguirre, who is head of the services side, have a working group between them that work on these issues, and they're resolving them very well. It's a challenge, but they are making progress on it.

One of the biggest challenges, by the way, is the overseas offices, because usually in a small overseas office they serve everyone, and they're funded in many instances by the services side fee collection, and that is a difficult issue we're wrestling with.

Senator Leahy. I am sure it is. I have other questions about TSA staff reductions, certainly at the Burlington Airport and others. I will submit that for the record.

And I will make the same invitation to you I made to Governor Ridge. The snow has gone out in Vermont. It has now melted. The maple syrup crop is in. Come to Vermont and talk to these people. I really wish you would. They are amazing. I have spent a lot of time both in South Burlington and St. Albans, where we have so many INS, Customs, others up on the border, and I use that term, INS, Customs, all just realizing that has changed, but to indicate who I'm talking about.

These are remarkable people. They are highly dedicated people, alien tracking system that you referred to in law enforcement. I remember one time we had 20 inches of snow overnight. This had to stay open around the clock. Everybody showed up to work on time, and I said something and they said, well, there has to be somebody here, of course. I mean, there's just never any question.

So come on up there sometime. I would love to show you around.

Mr. Hutchinson. Thank you. I'd be happy to do so.

Senator Leahy. And I will submit my other question, if I might, for the record.

Senator Cochran. Thank you, Senator Leahy.

#### ENFORCEMENT ROLES AND COORDINATION UNDER REORGANIZATION

Mr. Secretary, in your directorate there are several sub-

bureaus focused on enforcement of current law, specifically the Bureau of Customs and Border Protection, the Bureau of Immigration and Customs Enforcement, and the Transportation Security Administration. How do you intend to coordinate the policies and the investigations procedures of these different entities within your directorate? Will they be coordinated, or will they function more or less independent of each other?

Mr. Hutchinson. They will be coordinated, and we're doing it in a couple of ways. First of all, every Friday we have a policy council, BTS policy council that meets. The heads of each of the agencies under the Border and Transportation Directorate meet and we work on this coordination every week, high level.

For example, use of force. Whenever you have a multitude of different agencies coming from the Justice Department, the Treasury Department, Transportation coming over, everybody has a different policy. We want to unite them together. This afternoon I'll be meeting with the Deputy Secretary about the procurement of boats. Whenever you have Coast Guard, it's not in the BTS, but we're trying to coordinate that with our Immigration and Customs Enforcement procurement of some air and marine assets, so we're working at that level as well.

Probably most importantly, though, is the IT architecture, the information infrastructure. We're working with Steve Cooper, our Chief Information Officer for the Department, and building it together. For example, TSA is proposing and trying to pilot the CAPPSS-II program, which is an information-sharing system I also emphasize over and over again that ultimately we want to be able to collect information from our visa programs overseas and the consular offices, make sure that information is available to our inspectors at the airports and our land ports of entry. Furthermore the information that is collected must be Government-based, not any private databases there, but appropriate to be shared, can be shared, and so we want to integrate these functions together.

It is a humongous challenge. I think there's almost 3,000 different mission-oriented programs for our information infrastructure. That's a huge challenge, to coordinate those together, but we're working on it through policy development in our policy council.

#### CONSOLIDATED PROCUREMENTS

Senator Cochran. In that connection, I think there could be opportunities for substantial savings if you bring together the procurement processes too. You mention the boats and ships that might be under the jurisdiction of the Coast Guard or some of the other agencies, but a number of automobiles and other vehicles like buses and helicopters are used by the Border Patrol, Investigations, Detention, and TSA. It seems to me that they could be consolidated in a procurement regime under your directorate, and you could end up saving money and become more efficient in the process. Is that your plan, and to what extent are you implementing that kind of plan?

Mr. Hutchinson. That is the plan, and it will result in some savings. For example, the Canine Enforcement Divisions. TSA has a canine enforcement program, bomb-sniffing dogs. We

have drug-sniffing dogs in terms of the border inspection, and we want to look at ways that we can bring these programs together, not just for cost savings, but also for better standards and better training, so that's one area.

As you mentioned, there's a whole host of others. Helicopters is a good example, and not just in procurement but also in cross-training capabilities. I was in a meeting of employees where you had the Border Patrol having their helicopters, and then you had the Air and Marine Division of Immigration and Customs Enforcement with their helicopters, and they said, you know, we'd have less down time if we were cross-trained, we could actually use the other's helicopters, so this is something that's being pushed at both the ground level and at a high level.

In some instances we won't be able to have joint procurement. If we can't, we want to be able to explain why and check it out.

#### CONSOLIDATED INFORMATION TECHNOLOGY

Senator Cochran. You mentioned information technology. Do you intend to consolidate hardware and software systems within your directorate so you eventually end up with one single technology platform, or will it be a combination of systems?

Mr. Hutchinson. The ultimate goal is that they're integrated and that the information is shared. As to how you technically reach that goal, I will leave that to Steve Cooper, our Chief Information Officer, who has the technical capabilities, but I am working with him to accomplish that. It is not going to be--we can't stop every program development right now to say, wait till we get all this coordinated, but we're trying as we develop a program saying, make sure that this is going to be able to tie in to the other programs that we know have to be developed, so ultimately we will be measured by that, and we're committed to having success on that.

Senator Cochran. Well, I wish you well. I think it is a very challenging responsibility that you face. To what extent do you try to impose your will on the agency heads within your directorate?

I'm thinking about some of the specific requirements for security precautions at our Nation's airports. There still seems to be a good deal of controversy surrounding some of those things, whether they're needed or not, whether they take too long, do you have too many people as screeners, or not enough at some places. How much are you going to get involved in the details of those decisions?

Mr. Hutchinson. Senator, first of all I have a lot of confidence in the agency heads. They're good managers. They are very thoughtful, and certainly want to do a good job for the country, so I don't want to micromanage them. We give broad direction to them, but we do ask the tough questions, and that's my responsibility, and so that is one of the reasons I get out in the field. I see how it's working out there, I come back and push them on a number of these things, and then we have our own initiatives, some of those I have mentioned, to bring them together.

The greatest challenge, but opportunity, we have is to

bring these cultures and operations together in a way the American public expects. For example, the sharing of information, where a boat operator does not have to send the cargo information to three different agencies but can send it to one--a common sense approach, and we're doing that. Those are the kinds of initiatives we want to be able to drive with them. Good managers, though. They have a lot of flexibility, but we are working for Department objectives that they will implement, and we're going to make sure that happens.

Senator Cochran. Thank you. Senator Byrd. Excuse me, Senator Kohl. Senator Byrd is willing to yield to you for any questions you might have. We've been operating under sort of a loosely determined 5-minute rule for questions.

#### REDUCTION OF AIRPORT SECURITY SCREENERS

Senator Kohl. Thank you. I appreciate it very much.

Mr. Secretary, recently the Administration announced that it intends to cut 6,000 security screeners at airports around the country. I do understand that some airports may well have more screeners than they need, and so I'm not opposing the reductions in their entirety. However, I'm concerned about a few airports in my State of Wisconsin that I believe will have a difficult time dealing with staff cuts.

First, Dane County Airport is listed as going from 81 to 63 screeners. I have been told that this is based on some misunderstanding about the number of security lines at that airport in Madison. TSA thought that Madison had only one security line when in fact it has three.

I have also been informed that this confusion is in the process of being sorted out and that Madison should get an additional screener, which would bring it to a total of 82. Is my understanding correct, and can we expect a decision on this fairly soon?

Mr. Hutchinson. There have been some--you know, in the process of adjustments there were errors made that have had to be reevaluated. Originally we had received some inaccurate information about the number of lanes in Wisconsin. The field resubmitted that information, and the numbers will be finalized in the next couple of weeks to reflect the added lane you mentioned. I will be glad to get back with you more specifically on your question to give you the commitment that you're asking for, but that is the information that I have right now, and we will continue to work on that.

Senator Kohl. I appreciate it, and will stay in close touch.

At another airport, at the Outagamie County Airport in Wisconsin, which serves the Appleton area, it's slated to go down to 29 screeners from its current level of 51. However, even with 51 screeners Outagamie County Airport is paying 10 percent of its screeners' employment costs now in overtime, so the question is, why would screeners be reduced when TSA is currently paying overtime on a regular basis in this location?

Mr. Hutchinson. I would have to look at that, too, and get back to you. The methodology for the changes that were made looked at passenger loads and the numbers of lanes, the use of part-time and seasonal employees. The split shifts were

considered, but that doesn't answer the question that you're asking, and we will be glad to get back with you as to how the overtime that they were having to commit justifies the reduction that you refer to.

Senator Kohl. Okay. Well, I would like to be able to stay in touch with you and the Department on that one.

#### SMUGGLING OF PSEUDOEPHEDRINE

Mr. Secretary, in January of 2002 a trafficking operation operating in several U.S. cities was found to be smuggling pseudoephedrine, a precursor to meth, into the United States from Canada. Meth is a major problem in my own State of Wisconsin and throughout the Midwest, but what's even worse, the proceeds of that trafficking ring have been traced to Hezbollah and other terrorist groups operating in Yemen and Lebanon. In what ways has the Department of Homeland Security tightened its processes and procedures at the borders to stop the smuggling of illegal drugs or their precursors into the United States, in light of the link between drug trafficking and terrorism?

Mr. Hutchinson. Excellent question, and I appreciate that both from my current standpoint of protecting the borders and the point I made when I was at the DEA. We are very concerned about these types of operations at Homeland Security. Illegal drugs constitute one of the biggest weapons of mass destruction that we suffer, and so it is appropriate that we protect our borders from both terrorist weapons and also drugs.

What you refer to is Operation Mountain Express, a very successful investigation of the pseudo-traffickers, and as you mentioned, some of that money went to the Middle East, some of which went into the hands of some terrorist organizations. What we're doing at the border--and I was there at some of the ports of entry on the Northern border, and our inspectors are looking at shipments that may be suspect in terms of pseudoephedrine that would come from Canada.

We're also certainly encouraging our Canadian counterparts to regulate pseudoephedrine so they do not have the legal capability of procuring it there and moving it through the Canadian commerce chain before it comes across our border. We are keeping an eye on that from an inspection standpoint at the borders, from an investigative standpoint through Immigration and Customs Enforcement, and finally working with the Canadian Government to regulate pseudoephedrine.

Senator Kohl. Thank you.

#### SEVERE ACUTE RESPIRATORY SYNDROME (SARS)

A last question, Mr. Secretary. We can all be thankful SARS has not taken serious hold in our country. However, SARS has shown us that a deadly illness can be introduced and spread by visitors to our country, or upon the return of an American citizen who has traveled abroad. What is the Department of Homeland Security doing to ensure that visitors who come into the United States at border crossings or by airplane or by boat are not carrying SARS? What is the Department doing to prepare for and safeguard against other, possibly more lethal diseases?

Mr. Hutchinson. It has been a wake-up call for all of us that have responsibility at our ports of inspection. In reference to SARS, we provided training information for our inspectors to know what SARS is about, how to identify the symptoms of that, and what to guard for.

We certainly give them the protective equipment whenever they have reason to believe they might be exposed so they can protect themselves. We are closely working with the Center for Disease Control and Secretary Thompson's shop to make sure we have the right information.

As we see passengers that come from areas of the world that have an outbreak of SARS we will give them information that CDC prepared, that they know that the passenger would be able to identify the symptoms and be able to check with a doctor if they encounter those symptoms.

So it's training, it's information that we're providing for the passengers, and then we're looking down the road in the event it becomes more serious, or a greater concern, what additional steps we should take. That is difficult, difficult obviously when people are coming to our land borders particularly. There is very little that we can do, but we do want to be able to provide the training and the information, and to see if there's any additional action we can take in conjunction with CDC.

Senator Kohl. I thank you very much, Mr. Secretary.

Mr. Chairman, thank you.

Senator Cochran. Thank you, Senator.

Senator Byrd.

#### ENTRY/EXIT SYSTEM

Senator Byrd. One crucial component of ensuring our homeland security is ensuring that we as a government know which foreigners are visiting our country, why they are here, and that they depart when they are required to do so. Our existing visa tracking systems are not doing the job. The budget before us requests \$480 million for the new entry/exit visa tracking system. This is only a \$100 million increase over last year's level of funding.

A few days ago, Secretary Ridge announced a major change in the program, proposing to create the U.S. VISIT system. The Secretary has testified about the potential use of biometrics in the system, but he offered very few other details when he appeared before the panel last week.

Many Members of Congress and outside experts are concerned about the lack of progress in implementing the previous system, much less this revised system. It's my understanding that the Department has not yet determined what technology will be used in developing the system. Do you have anything new on that point?

Mr. Hutchinson. I believe Secretary Ridge set the goals and the direction for us in his testimony he presented to this committee. He has directed us to go through a review of the program that we inherited to see how we can meet the objectives that Congress set for us in their deadlines, but also the goals that Secretary Ridge has set. There are a number of policy decisions that have to be made in order to determine how we get

to these objectives. We are due to provide the Appropriations Committee a report on this, and we look forward to getting that to you as soon as we can conclude this review.

Senator Byrd. Considering the track record of the former INS in tracking foreign visitors, let alone identifying potential terrorists or even coordinating watch lists with other Federal agencies, I did not have much faith in that service's ability to get the job done. Shortcomings have plagued the INS, and are not far from plaguing the Border and Transportation Security Directorate. There remain too many holes in our borders and not enough agents. There are millions of visitors to this country, and there is not even an ability to guarantee that they are who they claim to be.

What steps are being taken to ensure that this system is on track, and that it can be deployed in a timely fashion?

Mr. Hutchinson. Well, first of all, the goal that was given to us in 2003 was to deploy, to have an entry/exit system for our airports and our seaports. As Secretary Ridge indicated, we're going to meet that congressionally mandated deadline. We're going to have that capability.

In addition, really in my view further than the law requires, we're going to have the capability of capturing and reading biometric identifiers at that time in our airports and seaports, so we look forward to working with Congress to accomplish that goal.

The second part of the mandate is to have the same type of system in the 50 land ports of entry by the end of 2004. We are moving forward aggressively to evaluate what has been done by the former INS in developing this system. As soon as we complete that review, we will report to the Congress as to where we will be in reference to the 2004 deadlines, but we're working very aggressively to accomplish that.

When you talk about tracking visitors, a part of it is also getting better information on our visitors and checking them out at our consular offices overseas. We are working with the Department of State right now for a memorandum of understanding with them to transfer some of the oversight and training responsibilities on that from the Department of State to the Department of Homeland Security, which was a part of the legislation that created this Department.

#### TRACKING OF STUDENTS AND EXCHANGE VISITORS

Senator Byrd. One of the criticisms of the former INS, Immigration and Naturalization Service, was and remains its inability to adequately track the entry and subsequent exit of non-U.S. citizens who come to the United States and for whatever reason overstay their visa. For instance, only last month, the Department of Justice's Inspector General released a report stating that there are significant deficiencies in the tracking of foreign students.

Your Acting Assistant Secretary of the new Bureau of Immigration and Customs Enforcement agreed with the IG's conclusion that they need more resources to properly manage one of the many tracking systems. What is your take on that? Are additional resources required to implement the new system?

Mr. Hutchinson. Well, the Department of Justice Inspector

General report was on the SEVIS system, which was the tracking system for foreign students that come to our educational institutions, and this has been a very successful deployment, in my judgment, by the former INS, and now, the Immigration and Customs Enforcement responsibility. There were some bugs in it, as was pointed out by the Inspector General. Those we are attempting to address, and working with the universities to accomplish the very important goal of being able to track our students.

You asked about the resources. What we are creating is a lot of information for us to evaluate. We know, for example, that the universities will call in foreign students who have foreign student visas but they do not show up for class. Now, why is that? Do they just get a job somewhere? Do they go back to their home? If we have over 2,000 names of people, students who do not show up for class, we have a responsibility to check those out, and we are trying to develop that capability.

So we want to be able to get information but also to have an enforcement mechanism to investigate and to prosecute those who violate our law. That is a challenge for us. We are trying to meet that. Do we need more resources? That is part of the 2004 budget that I think will be adequate. We are going through to see what greater capability we need. I would be happy to report back to you, because I want to make sure we do not just get information from all these different tracking systems, but we have a capability to follow up on that information.

#### COUNTERFEIT IDENTIFICATION DOCUMENTS

Senator Byrd. Last year, the Senate Finance Committee tasked the General Accounting Office with sending agents out to try to enter the United States from Canada, from Mexico, and from Jamaica, using false names and counterfeit identification documents. In short, in each instance those GAO officials succeeded in using these fake documents to enter the United States. On at least one occasion, they were not even stopped as they crossed over at one point of entry.

They created fictitious driver's licenses and birth certificates, using off-the-shelf computer graphics software that is available to any purchaser. Additionally, they obtained and carried credit cards in the fictitious names that were used in the test. The agents entered the United States from all three locations using the fake names and documents. Officials of the former Immigration and Naturalization Service and the U.S. Customs Service whom the GAO agents encountered never questioned the authenticity of the counterfeit documents, and the GAO agents encountered no difficulty entering the country using the fake documents. On two occasions, INS officials did not ask for or inspect any identification documents when the GAO agents entered the United States. On another occasion, an agent was able to walk across a major border checkpoint without being stopped or inspected by any government official. The results of the exercise led the GAO to conclude that, (1) people who enter the United States are not always asked to present identification, (2) security to prevent unauthorized persons from entering the United States from Canada from at least one location is inadequate, and (3) inspectors from the

former INS are not readily capable of detecting counterfeit identification documents.

Now, what steps, Mr. Secretary, do you intend to have implemented in order to address the gaps, such as better training, more intense document scrutiny, and what additional resources do you need in order to accomplish these things?

Mr. Hutchinson. Thank you, Senator. First of all, we need to learn from those type of GAO reports and to take those lessons and apply them in the field. A couple of points there. In that GAO attempt to enter the country, they utilized, I believe, in most of the instances, State driver's licenses. Our inspectors, with 50 different States, are not as trained in identifying all the nuances of the different States' driver's licenses versus foreign passports, and so it can be addressed by more training. It can also be addressed by the States implementing more security in the issuance of their driver's licenses that are more resistant to forgery, so we need to approach it in both ways.

Secondly, I would point out that these are American citizens that were reentering the country, and our law does not require American citizens who travel to Canada and back to have any travel document, other than simply their affirmation or perhaps a driver's license that they are an American citizen. If we required our American citizens to have passports when they leave the country and return, obviously that would be a greater security measure, but I'm not sure we want to do that yet.

I would also point out that I was pleased that there was an instance, I believe it was in a Niagara point of entry, that an Iranian came across the border with fraudulent Australian passports, and who was apprehended at the time. So I think there's a difference between capability of our inspectors in picking up on false passports versus a driver's license from the different States. So we need to work on training, we also need to work with the States to enhance the security of their travel, a driver's license and other documents.

Senator Byrd. Mr. Chairman, I have further questions, but I would be glad to await your questions.

TRANSPORTATION SECURITY ADMINISTRATION RESPONSE TO SECURITY ALERT  
LEVELS

Senator Cochran. Thank you very much, Senator Byrd. In connection with the Transportation Security Administration, while you don't get involved in the minutiae of day-to-day administration responsibility, you do have the responsibility of providing guidance and supervision of those who do run that agency on a day-to-day basis, and I wonder about the impact of these different stages of alert, the red alert, yellow, orange, or all the rest. To what extent are you involved in helping to determine exactly what the Transportation Security Administration does when it changes from one state of alert to another?

Mr. Hutchinson. I am substantially involved in that. In fact, when we brought on TSA from Transportation, other agencies from Justice, they had different ways of responding to the different alert levels, so one of the first things we did

under my leadership was to ask for a review of the actions that were taken when we raised the alert level, and to make sure that they are complementary of each other. We are very much involved from a leadership standpoint in the actions that are taken by those agencies.

We also, most recently during Operation Iraqi Freedom, developed our own operation, Liberty Shield, in which we provided the leadership to the agencies working with them as to what should be the response and the additional security measures that would be taken as a result of the hostilities overseas.

#### AIRPORT SCREENER REDUCTIONS

Senator Cochran. Also, with respect to the Transportation Security Administration, we observed that Admiral Loy, who is the Administrator, has announced he plans to cut the number of airport screeners, 3,000 during this month and another 3,000 by the end of the fiscal year. How did the Transportation Security Administration get in the position of having such a large number of screeners--I have been advised the number is 55,000--when there is a statutory cap for full-time permanent positions at 45,000? Is this an indication that at least 10,000 of these were viewed as temporary employees, and it didn't violate the statutory cap?

Mr. Hutchinson. That's correct, either temporary or part-time, so it either could be a contract or they could be part-time. The full-time equivalency, Admiral Loy submitted to Congress that those statutory caps were met, but notwithstanding that, the reduction of the screener force came about. We closely monitored this working with Janet Hale, our Under Secretary for Management, looking at it from a budget standpoint, knowing that there was going to be a shortfall in the TSA budget, and there is this need to be met.

We worked with Congress, the Appropriations Committee with this, to know how we needed to address it, and as a part of that we were going to have this reduction in force. There were other components to meeting the budget requirements, but this was one phase of it.

#### COST OF SECURITY INVESTMENTS AT SMALL AIRPORTS

Senator Cochran. One other issue in this airport security area that is troublesome is the cost of security investments for small airports. For many of us, we represent States that don't have large airports but do have substantial investments through local governments and airport authorities in air transportation facilities. These smaller airports are being held to the same standards as larger more financially able airports, they are required to make changes for explosive detection systems and many other things. It looks to me, that we're going to either put some of these smaller airports out of business or make it very, very expensive for local taxpayers to fund the changes that are being ordered at the airports.

You mentioned Biloxi, Mississippi, a while ago when you were talking about your visit to the New Orleans port. Not only do we have ports along the Mississippi Gulf Coast, but that's a

rapidly growing area in our State. Air transportation demands are increasing enormously, and while they've done a good job of keeping pace, the airport now is being asked to relocate facilities for security purposes.

They were asked to move the parking areas way beyond where they were, to shut down existing parking facilities, all at tremendous expense, and then some of those decisions were changed, actually repealed. I'm not complaining that they were repealed, but the fact is they went and incurred enormous expenses, and then they said well, we changed our mind, you really don't have to do exactly what we asked you to do before.

Is there any plan for the administration to try to help meet the needs, the financial needs, of local airports, like the Biloxi, Jackson, Mississippi, Airports and others in our State, that are having to try to figure out how they're going to pay for all of this?

Mr. Hutchinson. It is a burden that is shared by your airports in Mississippi but also my airports in Arkansas that I'm very familiar with that are under similar circumstances. It has been a burden, and it reminds us that we certainly need to have enhanced security, but it also creates a real mandate on the private sector and expense on their part. We did get the EDS equipment in, but it was in very awkward places, many times out in front of the ticket counters, and they needed to be moved. The airports wanted them moved, and so that's a process we're going through.

#### FUNDING FOR EDS INSTALLATIONS

Approximately \$1 billion in funding has been appropriated for EDS installations, \$738 million in 2002, and \$265 million in 2003. Of that, about half of that has been spent, and so there will be more that has been put out in the field based on that appropriation. The President's 2004 budget did not include additional funding for EDS employment in light of that \$1 billion that is already appropriated, but the most recent war supplemental did provide for the possibility of letters of intent to the airports for in-line EDS installations, and we are committed to utilize that mechanism if the airports believe that is appropriate and helpful.

#### AIRPORT MODIFICATION FUNDING PRIORITIES

Senator Cochran. Do you have a procedure, or some kind of priority in mind for making these grants? How are you going to determine which airports are eligible, or which applications are going to be approved? I assume you can't approve every application for Federal funding assistance.

Mr. Hutchinson. That is correct, and there is a ranking of priority. Part of it is first of all those airports which utilized alternative means of baggage screening, and so they would have a priority first for the EDS installation, and then there are other rankings in priority. I would be glad to answer that more specifically and get that back to you.

[The information follows:]

Funds will be utilized for modifications to airports in two ways.

TSA will continue to fund through an existing contract with Boeing for completion of work already assigned to Boeing by TSA. Second, TSA expects to utilize these funds towards in-line EDS solutions. TSA is developing a plan to be completed in the near future which outlines the Federal Government's long-term commitment for this purpose.

Senator Cochran. We would appreciate being informed about procedures and the priorities that the TSA is going to follow in making funds available to local airport authorities. We just hope the smaller ones don't get left out. That's the whole point.

Mr. Hutchinson. Absolutely.

Senator Cochran. I know there are priorities for the larger airports, and maybe that's where the greatest threats occur and are. I have some other questions as well, but on other topics, but I'm happy to submit those to you.

I think you've done an excellent job, coming in to the responsibility as you have with a lot of pressure, a lot of visibility. A lot of people want answers to questions that maybe can't be answered right away, and you have to work your way through a lot of these challenges. But I've been impressed with the way you've taken on the job and I appreciate the fact, just personally, that you've agreed to serve in this capacity. It is a very important responsibility, but you have a high level of energy and enthusiasm for it, and we appreciate your service very much.

Mr. Hutchinson. Thank you, Senator.

Senator Cochran. Senator Byrd.

Senator Byrd. Mr. Chairman, I agree with your statement and your assessments of the Secretary's authority and his dedication, and I want to echo the same.

#### PORt SECURITY GRANTS

Earlier, we discussed port security. In February, the Congress approved \$150 million in the Omnibus Appropriations Act for port security grants. Three months later, your agency, Mr. Secretary, had done nothing to make those funds available to the ports, where the dollars can actually make our homeland more secure. What are your comments on this? Will you commit to using the \$150 million right away to meet some of the \$1 billion in applications that are sitting on your desk in response to the recent competition for the \$105 million appropriated in the fiscal year 2002 supplemental?

Mr. Hutchinson. Senator, you're absolutely correct that that money is needed out there, and that money needs to move. Clearly TSA, with its budget constraints, in which they have had many aspects of direction and demands placed on them both from reality, but also from Congress, has demands greater than the resources they have right now. I know they have to evaluate these demands in conjunction with the Under Secretary for Management and OMB, and hopefully that money will be available to be put out in the field in the near future. We are waiting for the completion of that review and determination by our management folks.

Senator Byrd. On November 25, 2002, the same day the President signed the Homeland Security Act, he also signed the

Maritime Transportation Security Act.

The Coast Guard has estimated that it will cost \$1.4 billion in the first year and \$6 billion over 10 years to implement the Act. The Congress has included in three separate emergency supplemental bills, as well as, in the fiscal year 2003 Omnibus Appropriations Act, funding for port security grants, and a total of \$348 million has been provided. However, none of this was requested by the administration.

Only \$93 million has been distributed to the ports to date. So, while the administration was eager to sign the Maritime Transportation Security Act, the administration has been somewhat silent on the costs associated with implementing it. Do you have any further comment, Mr. Secretary?

Mr. Hutchinson. Simply that we value our partnership with Congress, and that certainly reflects that you all provide leadership as well in this arena. The Coast Guard is responsible for conducting the port security assessments at the top 55 of our Nation's military and economically strategic ports. This is what has been mandated by the Maritime Transportation Security Act.

They have moved forward on this. The part of the funding out of the 2004 budget to complete this includes \$62 billion to complete the assessments. They have done 20 of them. They have 35 more to do. That is completed in the assessments out of the 2004 budget, so the Coast Guard will be moving forward on this and will be working closely from the TSA perspective and the Customs and Border Protection perspective with the Coast Guard to accomplish that mandate.

#### COMPUTER ASSISTED PASSENGER PRESCREENING SYSTEM (CAPPS II)

Senator Byrd. Mr. Secretary, in the Transportation Security Administration's budget request, \$35 million is for the new passenger screening program, known as the computer-assisted passenger pre-screening system number 2. This new system is designed to enhance airline passenger safety by mining commercial databases of personal information and using pattern analysis to predict which passengers might engage in terrorist activities. It seems to me that this is a dangerous path that I fear will delve into every nook and cranny of an individual American's life. Under this new system, as I understand it, the TSA will assign each passenger a risk level of green, yellow, or red, and they will use that determination to prevent certain passengers from boarding the plane.

Now, you're walking on a tightrope. Remember in the old silent movies, but perhaps you don't go back that far, they had people walking on tightropes without a safety net. You may be on such a tightrope. I don't know whether you have a net or not. You're designing a new system to screen airline and airplane passengers that may run headlong into individuals' rights to privacy. Your effort to identify potentially dangerous passengers is a good goal, but your mechanism, the so-called CAPPS-II system, is frankly scary. I'm not sure there is a safety net out there.

Mr. Hutchinson. I've heard of them.

Senator Byrd. I was there, and I've heard that--well, perhaps do you want to comment at this point before I go

further?

Mr. Hutchinson. I would be pleased to. Let me start by saying I was traveling with my chief of staff the other day on a commercial airline, and whenever my chief of staff received her ticket, it had selectee there, and this was coming from the airline. So right now you have the airlines designating who is going to be subject to secondary inspection based upon a very inadequate system. The design of CAPPSS-II is to put a little more rhyme and reason into who would be subject to a secondary screening, and it is important. I worked in Congress on privacy issues, and I'm very concerned about that aspect of it, and CAPPSS will not collect personal data such as credit history. Information collected will come from already available commercial databases, but there will be a firewall so that it will not be collected by the Government or retained by the Government. That firewall is very, very critical, and it is important, as you point out, that that firewall not be breached.

I'm pleased that Homeland Security has brought on board a privacy officer, Nuala O'Connor Kelly, who from a privacy standpoint will be reviewing this system, and we will work with her and other privacy groups in terms of making sure that their concerns are addressed, that the firewall is in place, that the Government will not retain data, and that we will not collect that data that would be offensive to Americans.

Senator Byrd. I've heard that personal indebtedness is one of the criteria to be evaluated when looking at a passenger's risk potential. Can you confirm that?

Mr. Hutchinson. That is not correct. There will not be a review of personal indebtedness and creditworthiness. The Government will not be doing that.

Senator Byrd. Well, I'm glad to hear you say that. It would seem a bit odd, wouldn't it?

Mr. Hutchinson. Yes, it would.

Senator Byrd. I fear that there's something there that would smack of elitism.

Mr. Hutchinson. It would be inappropriate.

Senator Byrd. There's a risk of abuse by the Government.

Mr. Hutchinson. I might not qualify to fly if that was the case.

Senator Byrd. That is frankly un-American, so I'm glad to hear you answer that question as you did.

Congress built a number of safeguards into the Homeland Security Act to protect against privacy invasions, but to date the Department has not made available to the public any information about development of the system, nor has it confirmed that it will publish guidelines for the program. How is Congress to know that privacy rights will be respected?

Mr. Hutchinson. Well, I do believe that Admiral Loy has made an extraordinary effort to keep the public informed through communication with privacy groups, and he has met with groups from the ACLU to other privacy advocates going over what the CAPPSS program is and what it is not, and listening to their concerns. I think there has really been an extraordinary amount of communication to the public through those groups of concern and a great deal of public comment on it. In fact, I think he's going to be testifying in a hearing on it very shortly.

So actually contrary to the development of some databases, this has been done through education and communication with the privacy groups, and we hope to continue to do that and listen to their concerns.

Senator Byrd. What data sources are being mined, m-i-n-e-d? CAPPS-II has raised privacy concerns that the Department has not yet addressed, so what data sources are being mined? Who has access to the data? What mechanisms will the Department use to verify the accuracy of the data?

Mr. Hutchinson. The Government will not be looking at any of these data sources. It will be only looking at the Government databases such as the terrorist watch list, then there will be the firewall, in which the commercial databases will be looked at from a commercial vendor's standpoint, but it will not be retained or examined by the Government. That is where the firewall comes into place, and that goal is, of course, to verify the passenger's identity and therefore refine the security screening selectee process and eliminate the majority of mistaken identity situations.

The personal data will not be collected by the Government, and will not be retained by the Government, and I think these are standards that are important in the development of this system.

Senator Byrd. Will the appropriate congressional committees be given an opportunity to review the proposed CAPPS-II guidelines before they are finalized?

Mr. Hutchinson. Absolutely. We would be happy to make sure that you or your staff or any of the committee staff be briefed.

Senator Byrd. Very well.

#### ADDITIONAL COMMITTEE QUESTIONS

Mr. Chairman, I believe I would submit the remainder of my questions for the record, and I thank you, and I thank the Secretary.

Senator Cochran. Thank you, Senator Byrd.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

#### Questions Submitted by Senator Thad Cochran

##### department start-up issues

Question. Please provide the Committee with the dollars, positions, and full-time equivalents that have been allocated to the Under Secretary's office in fiscal year 2003, requested for fiscal year 2004, and under which appropriation has requested these resources have been requested.

Answer. See below

	Fiscal year 2003	Source Appropriation	Fiscal year 2004
Funding.....	\$1,990,111	Departmental Operations.	\$9,715,000

Positions.....	67 .....
FTE.....	39 (est.) .....

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Substantial additional support, including facilities costs, desktop information technology services, security, and postage costs are funded centrally.

Question. Will there be a centralized Office of Legislative Affairs within the Under Secretary's office? Or do you plan to have legislative affairs responsibilities handled by each of your sub-bureaus?

Answer. The Office of Legislative Affairs is centralized in at the Department with legislative affairs personnel assigned within our components to provide direct support.

Question. What specifically has changed, and what has not yet changed for these agencies that transferred into your Directorate?

Answer. Interim structures have been established, including interim port directors in the Bureau of Customs and Border Protection (BCBP) and interim District Directors within the Bureau of Immigration and Customs Enforcement (BICE). The Transportation and Security Administration transferred as a whole entity and has maintained their management structure.

Question. How are you mitigating the impacts of this transition on the capabilities of each of the transferring agencies to continue to perform their homeland security missions and their non-homeland security missions?

Answer. Operational personnel that perform daily activities; have been maintained in respective geographic locations to ensure the level of expertise and continuity that existed prior to March 1, 2003 is continued.

Question. What specific steps have you taken to integrate the chains of command and the personnel of these organizations without interfering with their current capabilities to perform their missions?

Answer. Interim structures have been established, including interim port directors in the Bureau of Customs and Border Protection (BCBP) and interim District Directors within the Bureau of Immigration and Customs Enforcement (BICE). This will provide the most effective consolidated organizational structure with the least disruption to operations and personnel.

Question. The area that may present the most difficulty for integration are the three inspections services. After March 1, 2003, who assumed control of the inspections functions at each of the ports-of-entry? How were the decisions made in appointing the acting port directors?

Answer. On March 1st, approximately 40,000 employees were transferred from the U.S. Customs Service, the Immigration & Naturalization Service, and the Animal and Plant Health Inspection Service to the new Customs and Border Protection (BCBP) agency in the Department of Homeland Security. To address our priority mission of preventing terrorists and terrorist weapons from entering the United States, a single, clear chain of command was established. For the first time, there is one person at each of our nation's ports of entry in charge of all Federal Inspection Services. A group of senior managers from the legacy agencies (Customs, INS and APHIS) met to decide and apply criteria for identification of interim leaders. Designated interim port directors were identified by considering a number of factors including grade level, complexity of operational activity and size and variety of staff. A similar process to make the structure permanent will be completed in fiscal year 2003.

Question. What concrete steps are you taking to meld the different cultures of these organizations in a way that preserves any unique, positive aspects while creating an overall ``Border and Transportation Security (BTS) Directorate'' culture?

Answer. Our challenge is to convey to our over 170,000 employees that while the name of the agency has changed their mission remains the same. The success of BTS hinges on our men and women in the field and in our headquarters. When the Under Secretary and senior management travel they almost always have a roundtable or town meeting for all BTS employees in order to hear concerns and convey the Department's commitment to unify employees.

Question. How do you intend to effectively and decisively respond to resistance to change from these separate ``cultures'' coming over to BTS?

Answer. Through sound management practices and regular recurring meetings with BTS component senior staff, issues are addressed in a timely and effective manner. I also take every possible opportunity to hold town hall type meetings with employees to dispel misperceptions and reinforce the mission objectives of DHS/BTS. I have also instructed each of the respective agencies/bureaus within BTS to do the same.

Question. When will you be able to provide more detailed transition plans to Congress that will outline more specific steps that are occurring to accomplish the transition?

Answer. According to the Homeland Security Legislation, The Department of Homeland Security and the Border and Transportation Security Directorate (BTS) must report to Congress on a regular basis concerning the status of the transition and the reorganization. For example, 100 and 20 days after the legislation's enactment, DHS must report to Congress on the proposed division and transfer of funds between the Bureau of Citizenship and Immigration Services and the BTS. Furthermore, one year after the legislation's enactment, DHS must report to Congress on the implementation of visa provisions in the Act. We welcome this opportunity to report to you about our progress and the daily challenges that we confront during this tremendous undertaking.

#### COORDINATION ISSUES

Question. What steps will you be taking to ensure that the three sub-bureaus focused on enforcement within your own organization, the Bureau of Customs and Border Protection, the Bureau of Immigration and Customs Enforcement, and the Transportation Security Administration, will be coordinating information, policy, intelligence, and investigations?

Answer. Within the organizational structure of the Border and Transportation Security Directorate are offices of Policy and Planning, as well as Operations. These offices will ensure continuity, coordination and direction within BTS.

Question. As just one example, the Container Security Initiative, and the Customs Trade Partnership Against Terrorism are both being run by the Bureau of Customs and Border Protection (BCBP), and Operation Safe Commerce is the responsibility of the Transportation Security Administration (TSA). While one is focused on screening high risk cargo before it leaves the outgoing port, the other two operations are to be focused on total supply chain security. How will these projects be coordinated to ensure no duplication of effort and the best use of the funding provided?

Answer. BCBP has the sole statutory and regulatory responsibility

for container security on containers destined for the United States. Although this authority is clearly delineated through the implementation of enforcement programs like Container Security Initiative (CSI) and Customs-Trade Partnership Against Terrorism (C-TPAT), BCBP strives to comply with its mission in coordination with other equally vital offices within the Department of Homeland Security which have statutory and regulatory responsibility over a segment of sea transportation.

Coordination and communication with our department partners ensures an effective and streamlined security process. For example, BCBP has established a protocol with the United States Coast Guard to handle certain types of serious threats through the High-Interest Vessel program. Also, BCBP has shared interest with DOT and TSA in developing industry partnership programs that improve container security (and other types of transportation security) and are consistent for domestic and international shipping.

BCBP and TSA are working together through a jointly chaired steering committee that makes the final project selection decisions for Operation Safe Commerce. The Federal Register notice that initiated the Operation Safe Commerce program makes specific references to C-TPAT and CSI as initiatives that may be considered as part of Operation Safe Commerce business practices and technology supply chain ``test bed'' initiatives.

As a voluntary government-business initiative, the C-TPAT complements the overseas targeting of the CSI and the development of new security techniques under Operation Safe Commerce. As of May 9, 2003 C-TPAT membership includes over 3,000 companies that account for approximately 37 percent of all U.S. imports by value and approximately 93 percent of all U.S.-bound sea-containerized cargo. By creating a significant network of reliable and secure companies, C-TPAT enables BCBP to direct its CSI targeting to areas of greater risk and establishes a mechanism for incorporating the best practices and new high-tech equipment identified by Operation Safe Commerce.

Question. What steps have you taken to ensure that good coordination is established between your organization and the new Bureau of Citizenship and Immigration Services (BCIS)?

Answer. Working groups have been established to ensure proper coordination between BICE, BCIS as well as BCBP. These groups will address issues that affect all components and develop protocols to address these issues in a manner that satisfies the needs of all members of the working groups. Coordination on day-to-day issues is on-going between all components.

Question. We are looking forward to getting the report on the implementation plan for the separation of personnel and funding between the BTS and the BCIS as called for in Section 477 of the Homeland Security Act. Please outline for us what steps you are taking to put this plan into place.

Answer. On March 1, 2003, the Immigration and Naturalization Service ceased operations and its functions were transferred to three new Bureaus within the Department of Homeland Security. Recognizing the complexity of this transition, the Department adopted a phased approach, which focused first on realigning the operational components and chains of command within the Department. To ensure continuity of operations, no changes were made on March 1 in the areas of shared corporate and administrative support functions. For the interim, the former INS support functions continue to support former INS components, and the former Customs support functions continue to support former

Customs components. Work is currently underway to identify existing resources and options for organizing these functions in the longer-term. Transition offices have been established to coordinate and manage the transition process, and a number of working groups have been formed within the Department to address these issues, including a senior-level BICE, BCBP, BCIS group, which meets weekly. The Department will be forwarding a report with more specific information on the implementation plan later this month.

Question. Another important Directorate within the Department of Homeland Security is that for Science and Technology. How will you ensure that the experience and knowledge of front-line employees is being used effectively by the Science and Technology Directorate in deciding research priorities?

Answer. Science and Technology and Border and Transportation Security are developing a BTS technology strategy and plan. This would integrate the technology needs of the border and transportation security bureaus into one consolidated strategy, taking advantage of economies of scale, prioritize needs across mission areas, create synergistic opportunities among the bureaus and reduce unnecessary duplication. It would engender the confidence of the operational community, help demonstrate effective budget execution and justify the technology budget.

Question. What plans do you have to ensure smooth coordination with the Department of Justice, in such areas as the Executive Office for Immigration Review and the Office of Federal Detention Trustee (OFDT)? Please provide a detailed description of how you plan to structure the relationship with the OFDT.

Answer. The benefits of cooperation between law enforcement agencies are clear. To take advantage of existing efficiencies and economies of scale, and to avoid competition for detention space, the Office of Detention and Removal (DRO) pursued a service provider relationship with the Bureau of Prisons (BOP) and the Office of the Detention Trustee (OFDT). The DOJ/BOP/OFDT and DHS/ICE/DRO is developing and negotiating an Interagency Agreement that would allow DOJ to act as service provider for non-Federal detention services. At this time, the nature of support would include: the procurement of detention services; the inclusion of privately operated secure detention facilities and alternatives to detention; the establishment of intergovernmental service agreements with State and local entities for secure detention services; administration of contracts and agreements; management of Justice Prisoner and Alien Transportation Program; and oversight of the detention standards program.

Question. How do you plan to work with the Department of State to coordinate the policies governing the issuance of visas?

Answer. The Department of Homeland Security (DHS) and Department of State (DOS) currently are negotiating a memorandum of understanding (MOU) to implement section 428 of the Homeland Security Act (HLSA), which governs the visa issuance process. The MOU will address how DOS and DHS will issue regulations, policies, procedures, and other guidance that affect the visa process. Both agencies recognize there will be a need to develop standard operating procedures to further elaborate operationally on various aspects of the MOU. DHS and DOS, however, intend to work cooperatively and in a consultative manner to create an effective and efficient visa issuance process.

Question. Virtually every individual program under your direction has a need and a budget for buying vehicles. What steps are you taking to review these budget items? What plans are there for consolidation of procurement, retrofitting, and maintenance?

Answer. Within the Department we are working on these very issues as we develop our internal processes. We intend to look at requirements and find opportunities for economies and best value in procurements, improvements and maintenance support. In the interim we are seeking best practices and contract opportunities that offer efficiencies across components within the directorate as well as across the department and other partners.

Question. The Border Patrol has helicopters and fixed wing aircraft, while the Customs' Air and Marine Interdiction program transferred to your Directorate has fixed wing aircraft and marine assets. How do you plan to review these programs to see if there are possibilities for merger? Do you have any estimated cost savings that could be seen from the integration of maintenance?

Answer. While the priority will be to maintain the operational effectiveness of the Border Patrol and the BICE Air and Marine Interdiction program's, we will be reviewing the operational effectiveness and efficiency gains envisioned by the President when he submitted the proposal to create the Department of Homeland Security. BTS has already convened a group to look at the aircraft acquisition for BICE and the Coast Guard. As a result of the work group, the Deputy Secretary has directed the Department to establish procedures to ensure economies of scale for major procurements. This practice will be utilized in conjunction with the DHS investment review board.

Question. Do you plan to sit down with the U.S. Coast Guard to see what potential there is in applying best practices to your procurement or maintenance programs? What potential is there in possibly integrating some of the physical assets operated by your Directorate with the Coast Guard?

Answer. BTS has already convened a group to look at the aircraft acquisition for BICE and the Coast Guard. As a result of the work group, the Deputy Secretary has directed the Department to establish procedures to ensure economies of scale for major procurements. This practice will be utilized in conjunction with the DHS investment review board.

Question. Do you plan to review all of the canine programs run by the various components of BTS? Do you have any estimated cost savings that could be seen from the integration of these various canine programs?

Answer. BCBP has established a working group to review all of the canine programs, as well as to identify overlaps in missions. Output from this working group was provided to the Transition Team for the Commissioner's review and comments. The working group is waiting for direction on the final structure of the canine programs; however, the working group is being proactive in developing standards for like functions such as narcotics detection. Work is ongoing to standardize such things as evaluations, certifications, etc. At this time, the efforts would be budget neutral should they be implemented.

#### NON-HOMELAND SECURITY MISSIONS

Question. What changes did you make in the fiscal year 2004 budget requests for these new entities to reflect the homeland security priorities of the new Department?

Answer. The fiscal year 2004 budget represents an increase of nearly 100 percent from the fiscal year 2002 enacted level for the new entities. Compared to fiscal year 2002, the Bureau of Customs and Border Protection request represents an increase of 33 percent, the Bureau of Immigration and Customs Enforcement nearly 16 percent, and the Office of Domestic Preparedness request is 12 times greater than fiscal year 2002.

Question. In deciding fiscal year 2004 budget allocations, did you change any of the allocations for non-homeland security missions and capabilities from the amounts appropriated in fiscal year 2003? If yes, what were those changes?

Answer. The fiscal year 2004 budget requests allocations for non-homeland security missions and capabilities were made consistent with the fiscal year 2003 request and prepared in advance of the fiscal year 2003 appropriations.

Question. How do any changes in these fiscal year 2004 allocations represent compliance with the Homeland Security Act direction?

Answer. The Department's primary mission is the protection of the American people. The fiscal year 2004 request focuses on consolidating border and transportation security functions, merging response activities, creating a central point to map terrorist threats against vulnerabilities in our critical infrastructure. The Department also ensures that non-homeland security missions and capabilities are not diminished.

#### INFORMATION TECHNOLOGY INVESTMENTS AND INTEGRATION

Question. The fiscal year 2004 budget for BCBP requests \$30.2 million for an Information Technology Transformation to Homeland Security Fund, and has a separate request for \$22.3 million for an Information Technology Infrastructure program called ATLAS. In the Bureau of Immigration and Customs Enforcement (BICE) budget request there is an additional \$17.7 million for ATLAS. Are these separate program needs? If not, please explain in detail what each of these initiatives will accomplish and how they will be coordinated across the two bureaus. How do these two initiatives fit in with the request for \$5.7 million for the International Trade Data System? How do they relate to the ongoing Automated Commercial Environment (ACE) project.

Answer. The Information Technology Transformation to Homeland Security Fund creates a fund to address Information Technology (IT) compatibility and interoperability issues that will arise during the transition to the Department of Homeland Security, including, but not limited to: mission systems, electronic mail, networks, collaborative tools, and administrative capabilities. In addition, the transition creates an opportunity for broader sharing of border security and enforcement-related IT capabilities. This fund will be used to extend the enterprise architecture to provide expanded access to IT capabilities in support of the Homeland Security mission. This initiative is separate from the ATLAS request.

The request for funding for the International Trade Data System (ITDS) will support the development of a Government-wide system that will provide the trade community with a single interface to file international trade data with the Government. The ITDS initiative is an e-Government strategy that will implement an integrated, government-wide system for the electronic collection, use, and dissemination of the international trade transaction data required by the various trade related Federal agencies. Development of ITDS functionality will be

coordinated with the Automated Commercial Environment (ACE) and the overall modernization effort, and will impact both border security and trade compliance within multiple Federal departments, agencies, and areas within the participating government agencies.

ATLAS funding will allow the upgrade of legacy INS infrastructure to be compatible with existing Customs and Border Protection infrastructure, thus establishing a basis for interoperability.

All information technology investments are reviewed for compliance with our enterprise architecture framework to ensure technical compatibility and alignment with business goals.

Question. How do you plan to coordinate and integrate all of the information technology initiatives and legacy systems, like ACE?

Answer. BCBP is sponsoring an interagency integration team with ICE, BCBP and APHIS to address the myriad of integration issues, and is also working with DHS on information technology investments and architecture to ensure alignment within the Department of Homeland Security.

Question. What steps will you take to avoid the merger and integration problems that have been experienced by so many other agencies before you? Have you consulted with other agencies such as DOD, IRS, and the FBI for ``lessons learned'' from their unhappy experiences?

Answer. The BCBPs experience with the ACE initiative has provided an effective model for the planning and management of large scale information technology management systems. This model, the interagency integration teams mentioned above, and the established BCBP enterprise architecture will guide this process. The ACE business plan is based on lessons learned by the DOD, IRS, and FBI among others.

#### PERSONNEL IMPACTS

Question. When will you have an estimate of potential job dislocations and job losses for your Directorate, and when will you inform the workers affected and the Congress?

Answer. Program Managers within the Border and Transportation Security Directorate are currently reviewing the merged organizations to determine where consolidation of resources is appropriate. Competitive service employees within the Directorate will receive appropriate notification, as stated in the Reduction-In-Force regulations of Title 5, if and when a decision is made to close a facility or transfer a function to a new geographic location. We will ensure that Congress is notified in a timely fashion as soon as any decisions are made concerning worker dislocation.

Question. What specific criteria are you establishing to determine who will be dislocated and who will lose their jobs, and will you provide affected employees a fair process in which they can appeal these decisions and the application of these criteria?

Answer. Competitive service employees retain full rights under the Reduction-In-Force regulations in Title 5, to include appeal rights to the Merit Systems Protection Board. Any decision regarding which employees will be impacted will be based on the criteria as set out in these regulations to include creditable service, performance, and veterans' preference.

Question. Secretary Ridge in his testimony last week mentioned that working groups have been created to allow current employees the opportunity to participate in the creation of the new system. How specifically is this working with your Directorate?

Answer. The DHS Human Resources System design team has representatives from employee groups from throughout the Border and Transportation Security Directorate. Employees and managers will also have an opportunity to participate at town hall meetings and focus groups that will be conducted in the field over the next 2 months.

Question. At this point, what changes do you envision for your employees in terms of performance evaluations, compensation, and collective bargaining arrangements?

Answer. The DHS Human Resources design team is currently reviewing a variety of alternatives in all of these functional areas, and will be creating a set of options to be reviewed by a Senior Review Committee. Ultimately, the Secretary and the Director of the Office of Personnel Management will determine the final set of options that compose the new HR System.

Question. A central issue in the rank and file of the Inspections officers will be the reconciliation of the highly disparate pay and benefit systems with which they are compensated. How will you approach the resolution of these pay and benefit issues? Do you anticipate proposing a legislative package addressing pay reform? When will that proposal be sent forward?

Answer. The DHS Human Resources Design team has been fully briefed on the disparities in pay and benefits for employees across DHS and specifically in the Inspector occupation. This team will be providing options (which may include recommendations for new legislation) to address these disparities to a Senior Review Committee (SRC) later this summer. The SRC will then review the options and make recommendations to the Secretary and the Director, OPM, who will make the final determination on which options will be implemented.

#### MERGING AGENCY REGIONAL STRUCTURES

Question. What specific objectives have been established for creating a new regional structure for your Directorate, and what specific issues are being considered in developing this plan? Do you anticipate that each of your major sub-components, BCBP, BICE, and TSA, will maintain separate regional structures?

Answer. The overarching objective is to fulfill the DHS mission in support of the National Strategy for Homeland Security; to provide for unity of purpose among agencies. True integration of mission and department-wide effectiveness would be jeopardized with significantly different regional structures among DHS agencies.

Question. Which of the agencies transferring to your Directorate would you expect to be most affected by the regional restructuring plan? APHIS? Customs? INS? TSA?

Answer. We are in the data gathering and baseline analysis process, and the regional structure has not been developed. Impacts to various Departmental components cannot be estimated yet.

Question. Which is a more important objective for the plan--to save money or to increase operational effectiveness? How do you intend to make trade-offs between operational effectiveness and cost savings?

Answer. Increased operational effectiveness is not incompatible with cost effectiveness. It will be important for the Department to develop a regional concept that optimizes key factors including cost while maintaining the highest level of operational effectiveness.

Question. What specific criteria are you using to evaluate the pros and cons of the changes being considered, and which of these criteria do you consider most important and less important?

Answer. DHS is evaluating the best way in which to merge the field operations of twenty-two legacy agencies, represented by nine different regional alignments. To accomplish this, the DHS directorates, including BTS, are working to: (1) develop a baseline understanding of the current regional structures in the component organizations; (2) develop the options for a regional concept to ensure day-to-day operations and incident responses are well coordinated and planned.

Question. Do you have any preliminary estimates of the costs to implement the changes you are contemplating, and of the savings that might be made? When can we expect the costs to occur and the savings to be realized?

Answer. No. The baseline analysis currently underway will provide a better sense of the magnitude of the effort required to harmonize the regional structures of the legacy agencies.

Question. How long would you expect it to take to fully implement the plan should Congress approve it?

Answer. We won't know until the baseline analysis is complete.

Question. What specific progress are you making in developing the plan?

Answer. BTS is working with other DHS components to analyze various data and develop a baseline understanding of the relevant issues associated with the creation of a new Department-wide regional structure. An initial round of data collection has been completed and been passed to DHS staff for analysis.

Question. What schedule has been established to complete the restructuring plan and to inform Congress and the affected employees about your recommended course of action? Are you ahead, behind, or on that schedule?

Answer. We intend to create an implementation plan upon completing the baseline analysis.

Question. Please provide for the record the Statement of Objectives, Terms of Reference, Fiscal Guidance, Operational Assumptions, and mandated schedule that have been issued to guide the development of this plan.

Answer. These elements could be developed as part of an implementation plan, which would follow completion of the baseline analysis. The overarching objective is to fulfill the DHS mission in support of the National Strategy for Homeland Security; to provide for unity of purpose among agencies. True integration of mission and department-wide effectiveness would be jeopardized with significantly different regional structures among DHS agencies.

#### BORDER PATROL

Question. Now that the Border Patrol is part of your Directorate, do you intend to keep the National Border Patrol Strategy that the former Immigration and Naturalization Service has attempted to implement over the past 9 years?

Answer. The Border Patrol's national strategic plan was written in 1994 with the focus of implementation in the areas with the highest level of illegal immigration. The plan is achieved with the ``forward deployment'' and proper balance of agents, equipment, technology, and border infrastructure (cameras, sensors, roads, lights, fences or other border barriers).

Areas of operations that have become the focus of this plan have proved this to be an effective enforcement action. Participating sectors have seen a prolific change since the inception of their

corresponding operations.

- El Paso--Hold the Line (arrests down, crime reduced)
- San Diego--Gatekeeper (29 year record low in apprehensions, crime reduced)
- McAllen--Rio Grande (crime and arrests reduced)

Changes have occurred since the strategy's implementation, most notably following the September 11, 2001, attack on the United States. The strategy's Phase IV implementation was accelerated to respond to the potential threats on the northern border. The upgrades and application of technology for border deterrence and enforcement has also improved.

Continuation of the proven and successful National Border Patrol Strategic Plan is warranted in order to respond to emerging threats and changes in the past trends of illegal border entries.

Question. What changes might you consider making to the strategy to increase its effectiveness and reduce migrant deaths?

Answer. Due to concentrated border enforcement efforts, organized smugglers have shifted their techniques and areas of operation from traditional unlawful entry points near the ports of entry to extremely remote and dangerous areas. The intense summer temperatures and arduous terrain associated with these areas account for the majority of documented deaths. BCBP has been increasing efforts to identify and prosecute smugglers who choose more dangerous methods and routes to smuggle unsuspecting aliens. Yearly enhancements allow for BCBP to apply resources where the deaths occur to effectively deter and disrupt illegal border traffic. BCBP is also expanding its Border Safety Initiative, which incorporates a multi-pronged approach to making the border a safer environment. BCBP is increasing the number of qualified medical/rescue agents and is cooperating with Mexican counterparts at an unprecedented level. For example, a meeting of field representatives has just concluded, which produced a collaborative strategic plan for reducing deaths on both sides of the international border. As the strategy evolves other initiatives will be developed and supported. BCBP leadership is convinced that when the proper balance of personnel, equipment, technology, and tactical infrastructure exists, the illegal crossings will decline, bringing a commensurate decline in deaths and injury.

Question. Given the level of additional resources that have been put into the Northern Border will you be revising that portion of the strategy?

Answer. Since its implementation in 1994, the Border Patrol's National Strategic Plan has been the basis for a multi-year, multi-phased approach for the deployment of additional personnel and resources, for the purpose of increasing control of our Nation's borders. The cornerstone of this strategy calls for ``prevention through deterrence'' as the means to restrict illegal entry attempts into the United States. Along the southwest border, the strategy has concentrated Border Patrol resources into those specific geographic areas experiencing the highest level of illegal activity. The key to the successful implementation of this strategy has been the deployment of the proper balance of personnel, equipment, technology and infrastructure into those areas.

As originally written, the final phase of the National Strategic Plan calls for enhancing our enforcement posture along the northern border and coastal areas of the United States. Securing the northern border has traditionally presented many unique enforcement challenges for the Border Patrol. Our shared border with Canada is approximately

4,000 miles long and is the longest non-militarized undefended border in the world. In the past, this vast expanse, coupled with an inadequate number of personnel and a lack of resources and infrastructure, has significantly limited the Border Patrol's deterrent effect upon illegal activity. In the wake of September 11, 2001, vulnerabilities and deficiencies along the northern border have received increased attention, which has caused the Border Patrol to accelerate its efforts in increasing our enforcement presence along the northern border.

The current Northern Border Strategy encompasses interagency and international cooperation and coordination, effective technology development and deployment, and innovative resource allocation. The geographic and environmental conditions found on the northern border have led to the historic economic and cultural interdependence of the United States and Canada. In light of the long-standing cooperation and economic interdependency, the Border Patrol has conducted activities along the northern border with significantly fewer resources than were dedicated to the southwest border. For these reasons, the Border Patrol cannot simply replicate the same enforcement strategy implemented on the southwest border.

The Northern Border Strategy relies upon maximizing existing resources in order to strengthen control of the border. The Northern Border Strategy also requires the proper balance of personnel, equipment, technology and infrastructure. To improve our effectiveness, the initial area of emphasis is the expansion of liaison and increased intelligence sharing with other Federal, State and local law enforcement agencies, as well as our counterparts within the Canadian government. The second emphasis is on the deployment of enforcement related technology along the border to act as a force multiplier, thereby increasing the area that can be adequately covered by available manpower. The final emphasis of the strategy calls for the deployment of additional personnel into our northern border sectors. As mentioned, subsequent to September 11, 2001, the Border Patrol accelerated into this phase by redeploying agents from the southwest border to the northern border.

#### U.S. VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY (U.S. VISIT)

Question. BICE had been taking the lead on this project. Where will the responsibility for implementing the U.S. VISIT system lie?

Answer. The Border and Transportation Security Directorate (BTS) is establishing a program office to oversee the project for which funds are requested under BCBP in fiscal year 2004.

Question. In his testimony last week, Secretary Ridge said the entire project is under review. When will this review be complete? Who is conducting this review?

Answer. The preliminary review was provided to the Secretary on May 16, with an internal review completed by May 30. The U.S. VISIT Office, in conjunction with the BTS and other Department stakeholders, is conducting the review.

Question. In your budget request the funds for this system were requested under BCBP. Is this appropriate place for those funds?

Answer. The Secretary delegated the implementation of the U.S. VISIT program to the Under Secretary of BTS. The U.S. VISIT program will ensure that funds appropriated for this system will be spent in accordance with the Spending Plans which are required under the fiscal year 2003 Omnibus Appropriations Act and Emergency War Supplemental

Act.

Question. What is the Department's acquisition strategy for the U.S. VISIT system? Does the strategy include the development of a prototype? Will the final solution include the selection of a single prototype or selected aspects of multiple prototypes?

Answer. The acquisition strategy will not be finalized until the Spending Plan has been reviewed and approved by the Secretary of DHS.

Question. A recent report by the Justice and State Departments and the National Institute of Standards stated that implementation of the entry/exit system at land borders was at least 1 year behind schedule. What is your current timeline for fielding the U.S. VISIT system at land border ports of entry?

Answer. The entry/exit system, now known as the U.S. VISIT Program, is expected to be delivered on schedule as required by the Data Management Improvement Act. The law requires that travel documents contain biometric identifiers not later than October 26, 2004. The DOS requested an extension of this requirement. This does not affect the implementation of the U.S. VISIT program at the land borders.

Question. What is your Department's position on the Justice and State Department reports?

Answer. The report stated that the Department of State will require an additional year to implement changes to their processes and systems. There is a conflict in the report between implementing the U.S. VISIT program and the requirement for biometric identifiers in travel documents.

Question. The entry/exit system will likely require substantial increases in staff and infrastructure modifications at 150-some land ports, particularly for the departure component. What assessments has the Directorate performed to determine the extent of additional staff needed?

Answer. Workforce analysis and workforce staffing issues have been identified as part of the U.S. VISIT 45-day Spending Plan.

Question. What assessments has the Directorate performed to determine the physical infrastructure changes that might be needed and their associated costs?

Answer. Estimated physical infrastructure, environmental, and construction costs have also been identified as part of the 45-day Spending Plan. The scope and unique nature of this program required extensive assessments of the physical infrastructure. A facilities project team has been dedicated to the program on a full time basis, since March 2002. The facilities team is an integral part of the U.S. VISIT Program. The U.S. VISIT Program facilities team partnered with the General Services Administration (GSA) in early April 2002 to prepare the foundation for facilities and infrastructure improvements related to the U.S. VISIT Program. The facility team is charged with the development and implementation of facilities and infrastructure in accordance with the program objectives and requirements. Direction and guidance to the facilities program team is provided by a Steering Committee staffed by Senior Executives from BICE, BCBP, and the General Services Administration.

The work to date has included:

- Collected basic facilities planning data in a Geographic Information System data base for all 165 Land Ports of Entry, including
- environmental data from State and Federal resource agencies
- high-resolution aerial photography of all Land Ports of Entry (POE)

--operational data for all Land Ports of Entry  
--documentation on real estate ownership  
--Modeled traffic flows for the 50 largest Land Ports of Entry  
--Developed proto-type designs for the 60 small Land Ports of Entry  
--Completed Feasibility Studies for the 51 small Land Ports of Entry  
--Completed environmental baseline studies for each Land Ports of Entry  
--Initiated a Strategic Environmental Appraisal for each Land Ports of Entry

#### STUDENT AND EXCHANGE VISITOR INFORMATION SYSTEM (SEVIS)

Question. Has that transition of authority from BCIS to your Directorate taken place? Who within the BICE will have formal responsibility for carrying out this program?

Answer. Yes, authority for the Student Exchange Visitor Program (SEVP) has transitioned to BICE. The Director of SEVP will have responsibility for carrying out the program.

Question. In March of 2003, the Department of Justice, Office of Inspector General (OIG) issued a report on SEVIS questioning whether the program has been fully implemented. What steps are you taking to remedy the problems in school certification that were found by the OIG?

Answer. The Bureau is in the process of reviewing the issues raised in the OIG report and is preparing a response. We will make available our response to you as soon as it is completed and delivered to the OIG. We expect to have that reply completed by the end of May 2003.

Question. Under the current timeline, the SEVIS system will not have complete information entered into it on every foreign student in the United States until August of 2003. This is 2 years after the events of September 11--some of those terrorists were on student visas--and 20 months after receiving full funding for the system. The Congressional mandate was to have the system completed by January 2003. Why is this taking so long? And what is being done to track these students in the meantime?

Answer. The DHS worked hard to meet the aggressive deadline for SEVIS implementation (January 2003) set forth in the USA PATRIOT Act. On July 1, 2002, 6 months before the deadline, the SEVIS was initially deployed to begin preliminary enrollment of accredited schools on a volunteer basis. Also in July 2002, the core foreign student program functionality was made operational and schools began to utilize SEVIS. By January 1, 2003, the all facets of the SEVIS system, including exchange program and exchange visitor functionality, and all system interfaces were deployed. By regulation, all schools and exchange programs, certified to admit foreign students or exchange visitors, were required to utilize SEVIS for all new students as of February 15, 2003. All continuing foreign students must be entered into SEVIS no later than August 1, 2003. The primary reason for a phased approach to collecting information on foreign students (e.g., entering students followed by continuing students) was to ensure program integrity. The schools needed adequate time to review and convert the considerable data on their continuing students to SEVIS.

This multi-phase approach was described in proposed regulations published in May 2002 and highlighted in testimony before the U.S. House of Representatives, Committee on the Judiciary, Subcommittee on Immigration, Border Security, and Claims (September 18, 2002) as well as before the U.S. House of Representatives, Committee on Education, Workforce Subcommittees on Select Education and 21st Century

Competitiveness (September 24, 2002). Finally, the multi-phase approach was codified in DHS final regulations in December 2002.

Until August 1, 2003, foreign students already in the United States continue to be monitored under the paper-based processes of former INS information systems. Schools are still required to maintain records and report updated information on these continuing students and are required to report violations of status to the DHS.

Question. What steps have you taken to tighten the oversight and training of contractors who are out there actually doing the on-site reviews of schools? What steps are being taken to improve the training being provided to adjudicators and inspectors?

Answer.

Training of Contractors.--The primary role of contractors conducting the on-site review of schools is to gather information pursuant to a standardized questionnaire developed by BICE. Once the information is collected, it is forwarded to BICE adjudicators where it is incorporated with other information and used in the decision-making process with respect to a school's certification or denial to SEVIS.

BICE has actively managed the on-site contractors. Initially three firms were employed by BICE for on-site reviews. Due to poor performance, one of the three firms was removed. The two remaining firms have demonstrated sufficient capacity to complete the on-site reviews without delay. Adjudicators have been instructed to bring deficient reports to the attention of the Contacting Officer's Technical Representative (COTR) so that these issues may be addressed with the relevant contractor. The COTR meets and communicates regularly with managers from the two contractors to discuss deficiencies as well as best practices. When fully staffed, BICE will use its compliance officers to perform many of the functions currently performed by the contractors.

Training of Adjudicators.--Officers assigned to adjudicate I-17 school certifications were provided with two separate group-training sessions in June and August of 2002. Since that time, we prepared and disseminated a comprehensive update to the Adjudicators Field Manual (the core guidance to adjudications officers of all benefit applications) that covers all adjudicative aspects of the foreign student regulations. Additionally, Headquarters has been conducting weekly regional conference calls with all officers adjudicating I-17s to keep them current on the status of on-site reviews and to answer any general questions regarding the adjudication of cases or to address the specifics of an actual case. Finally, Headquarters provides one-on-one training for officers newly assigned to this duty, on an as needed basis.

Training of Inspectors.--In January 2003, the BCBP inspections branch trained more than 300 inspectors at over 100 ports-of-entry via a web-based, interactive teleconference system. A copy of the training materials was provided to each port for follow-up training, conducted locally. The BCBP inspections branch continues to update its SEVIS related training.

Question. An important purpose of the SEVIS system is to allow for the tracking down of those students who have fraudulently entered this country with no intent to abide by their visa status. Have procedures been set up to identify and refer potential fraud for enforcement action?

Answer. Yes, procedures have been set up to identify and refer potential fraud for enforcement action. Leads are received from schools, from a variety of sources including the SEVIS system. The

leads are entered into a database and record checks are conducted by the Law Enforcement Support Center against a number of databases including the Foreign Terrorist Tracking Task Force databases and the Non-immigrant Information System.

When it is determined that a student or exchange visitor entered the United States, failed to comply with his or her status and then failed to depart, the lead is then deemed to be a viable lead which is referred for enforcement action. All viable leads are entered into immigration lookout databases. The leads are then prioritized based on national security concerns and, if appropriate, assigned to field offices for further investigation.

With regard to the enforcement of SEVIS, approximately 3,000 leads have been received from schools since December 2002, resulting in over 1,000 viable leads. All of these viable leads have been entered into automated lookout systems and 206 of these leads have been assigned to field offices based upon national security considerations. To date, 21 arrests have taken place and 2 violators were denied entry into the United States. 84 cases are still pending in the field and the remaining cases were resolved without arrests.

#### INTEGRATED INVESTIGATION STRATEGY

Question. The new Bureau of Immigration and Customs Enforcement BICE brings together the investigation arms of the Customs Service, the investigative functions of the former Immigration and Naturalization Service, and the Federal Protective Service. This unification of investigative functions is intended to enhance information sharing between Federal bureaus and provide for more cohesive enforcement of immigration and customs laws within the interior of the United States in addition to protecting Federal institutions and interests. Can you describe in more detail the nature of the Bureau's functions and how you plan to delegate specific roles and responsibilities within the Bureau?

Answer. The Bureau's functions will fully integrate the previous investigative responsibilities held by the Special Agents of the Customs Service and the Immigration and Naturalization Service. The investigative components of BICE will enforce the full range of immigration and customs laws of the United States. By unifying the previously separate investigative functions, the new Bureau will enhance information sharing with Federal, State and local law enforcement and develop stronger relationships with the U.S. Attorneys' Office.

The American public will only be able to identify a former Customs or INS agent as a BICE agent. To this end, all agents will receive training in the disciplines of their new counterparts to facilitate a cohesive effort in furtherance of the investigative mission of BICE.

BICE will accomplish its mission through effective leadership, cooperation and coordination with internal components, law enforcement, other governmental agencies and through the development of information technology and appropriate sharing and use of intelligence information to assess threats and prioritize targets. BICE will further develop and enhance partnerships with international, Federal, State, and local entities to help identify, prosecute, and/or dismantle criminal organizations and to locate, apprehend, prosecute, and/or remove individuals who threaten the peace and stability of the nation. The IIP will focus its resources on the issues and threats identified as most severe and will systematically identify and prioritize those activities

and apply all available laws and tools to counter those threats.

Question. When do you anticipate putting together an integrated investigations strategy that will blend the customs and immigration responsibilities of BICE and sharing it with the Committee?

Answer. The challenges of the 21st century and the aftermath of the September 11, 2001 attacks demand an integrated investigations strategy that provides a highly organized global approach with regard to the customs and immigration enforcement responsibilities. The unique authorities possessed by BICE special agents will allow them to play an integral role in defending the United States and securing its borders.

BICE is currently endeavoring to implement an integrated investigations strategy, which should be completed in the near future. Putting together an integrated investigations strategy means the recognition that BICE must partner with other law enforcement and intelligence agencies to protect and defend the United States. It will seek strong functional liaisons, and will formulate an aggressive, integrated investigations strategy and infrastructure with its partners. However, the process of integration takes time--not only to integrate several program specific investigations strategies--but also to ensure the compatibility with interdependent systemic infrastructures including information technology, human and budgetary resource options. For example, a new chain of command (integrating the two agencies) will be established, agents will be cross-trained in the disciplines of their counterparts at Customs or INS, differences in operational policies will be reconciled, and joint facilities may need to be secured. Currently, under the direction of the Assistant Secretary, we are ensuring steady progress toward addressing these issues, including the process of assembling an integrated, efficient and effective investigations strategy. The Bureau looks forward to the opportunity to share these developments with the Committee, as they occur.

Question. BICE has responsibility for investigating everything from intellectual property to smuggling of contraband. How do you plan to ensure that non-homeland security investigations are maintained at the same level?

Answer. Because law enforcement investigative priorities must concurrently evolve with the trends in criminal activity, each year BICE will review its investigative priorities and establish a comprehensive investigative strategy.

BICE will continue to collaborate with other law enforcement agencies to identify, prioritize, and pursue threats to the homeland. In addition, BICE will continue constant coordination with the intelligence community and with private, public, State, local, and Federal law enforcement agencies. This coordination will be a key component of achieving the strategic approach to the full range of investigations for which BICE is responsible.

Question. There are approximately 355,000 individuals who have been issued final deportation orders that have just walked away, absconded. The fiscal year 2003 Consolidated Appropriations Resolution included \$10 million for increased investigative staff to pursue absconders. What is the status of bringing on these new investigators? How do you plan to tackle the absconder situation?

Answer. BICE is planning to dedicate the \$10 million in new funds to locating, apprehending and deporting criminal alien fugitives in fiscal year 2003. These new funds will be used to acquire equipment as well as hire and train 69 new officers solely devoted to the initiative to locate, apprehend and remove absconders. Eight new fugitive

operations teams will be deployed in key strategic locations; Georgia/North Carolina, the Maryland/Washington DC/Virginia corridor, Massachusetts/New England, Mid-Atlantic, Illinois/Midwest, Central Texas, Pacific Northwest, and supplements to the existing Los Angeles team. Some of the positions will also be used to establish permanent staff at the Law Enforcement Support Center to aid in the entry of alien records into the National Crime Information Center (NCIC) which is used as a force multiplier.

The \$10 million supplements the \$3 million from the counter-terrorism supplemental the former INS received from the Patriot Act in fiscal year 2002. That \$3 million was used to hire 40 new officers, deployed as 8 teams in 7 cities, devoted solely to fugitive operations. The locations included New York City (2 teams), Detroit, Miami, Newark, Chicago, Los Angeles and San Francisco.

In order to provide a solid foundation to these teams, BICE has developed a new specialized training course for the members of the fugitive operations teams. The first class will begin training in July 2003.

Tackling the absconder problem will require an integrated system to arrest and remove current absconders in conjunction with programs designed to reduce the future absconder population. One element of this system will be the creation of new multi-agency task forces to focus on the problem of absconders. BICE has reached out to other Federal agencies, such as the U.S. Marshals, IRS, Social Security Administration and the Department of Labor as well as State and local law enforcement agencies, to expand the enforcement net and ensure that every tool available is utilized to find these aliens. Another key element of the system includes greater use of intensive supervision to ensure aliens show up for proceedings and removals, thus reducing the growth of absconders.

#### AIR AND MARINE INTERDICTION

Question. What is the status of the modernization review of all air and marine assets?

Answer. With respect to Air and Marine Interdiction assets, BICE has completed a review of all air and marine assets and expects to complete a revised modernization plan in late July 2003. We estimate delivering the plan to Congress in August 2003.

The Border Patrol developed a replacement/enhancement plan for their air and marine assets in fiscal year 2000. The acquisition of new assets is based upon availability of funds for each fiscal year. Additional new aircraft and marine vessels acquisitions are planned for in fiscal year 2003.

Question. Currently the base budget for Air and Marine Interdiction is split between BCBP and BICE, with the operations and maintenance budget in BCBP and a portion of the salaries and expenses of the personnel in BICE. What is the appropriate placement of this important program? Please provide the rationale for that decision.

Answer. The Air and Marine Interdiction budget was deliberately placed in BICE. Some of the reasons for this decision are:

Air and Marine staff and capital assets are deployed primarily for interdiction. The principal goals of interdiction are to enhance the BICE investigative process to prevent terrorist activity and to further investigations of major smuggling operations whether they be drug, alien, or terrorist in nature.

As a key part of the BICE integration of the immigration and

customs enforcement mission with other Federal agencies, OAMI will support investigative processes at Coast Guard, Secret Service, Emergency Management, TSA, and FPS. OAMI will support investigative processes at non-DHS agencies from DEA to FBI.

The use of OAMI mission and assets must be closely connected to the BICE intelligence mission and operations to be effective. It is this connection that ensures that the limited air and marine assets are effectively deployed to specific targets over a vast sea or border resulting in maximum deterrence capability. BICE intelligence based operations must be the lynchpin of OAMI strategy.

Operationally, OAMI is more identified with investigations than inspections or surveillance activity. OAMI has historically reported through the investigations division of Customs. In fiscal year 2002, approximately 60 percent of OAMI flight hours supported customs enforcement. With the integration of customs and immigration enforcement, we estimate that more than 80 percent of OAMI operational flight hours will directly support BICE investigations, foreign operations, border and maritime patrols. The remaining 20 percent will support transportation of people and assets, as well as training and maintenance, and other customers for support flights.

Based upon the above factors, placement of OAMI within BICE accomplishes the objectives of intelligence-based operations; more effective support of DHS and inter-agency law enforcement missions; and furtherance of investigations of terrorists and other crime syndicates. Air and Marine support of border protection functions will continue under this placement and will be formalized in an upcoming management directive. The proper placement of all our programs remains subject to periodic review.

Question. Please provide the fiscal year 2004 positions, FTE, and dollars for the following: operations and maintenance, to include the proper level of adjustments to base; salaries and expenses to, include the appropriate level of administrative overhead from the legacy appropriation and adjustments to base.

Answer. In order to fund the authorized strength of 1,105 FTE, the legacy appropriation with adjustments to base includes \$112 million for salaries and expenses in the fiscal year 2004 budget request. An additional \$175.05 million is included in the fiscal year 2004 budget request for legacy operations and maintenance with adjustments to base. Appropriate levels of administrative overhead are pending the completion of administrative support and structures between BCBP and BICE.

#### FEDERAL LAW ENFORCEMENT TRAINING CENTER

Question. How do you plan to balance the training needs of the Border and Transportation Directorate with the training needs of other Departments?

Answer. The Federal Law Enforcement Training Center (FLETC) conducts training and provides training support services for 75 partner organizations from across all three branches of Federal Government. FLETC also provides training for international, State and local law enforcement agencies on a selective basis. In the President's fiscal year 2004 request, FLETC was projected to train 45,208 students for a total of 183,202 student weeks of training at Glynco, Georgia, Artesia, New Mexico and Charleston, South Carolina. In early fiscal year 2004, a fourth site in Cheltenham, Maryland, is anticipated to be fully operational for requalification training in the Washington, DC

metropolitan area. Currently, training statistics for Cheltenham are in the developmental stage and are not part of the President's budget request. Of the projected student weeks of training, 65 percent will come from the nine law enforcement agencies transferred to the Department of Homeland Security.

The fiscal year 2003 projections are unprecedented for FLETC. To meet the training needs, FLETC will continue a 6-day workweek, which was started in January 2002, at its largest site in Glynco. Further, FLETC has a priority training system, which ensures that all mandated entry level law enforcement training is given first scheduling priority. The FLETC has received updated projections for fiscal year 2004. The new training projections have increased significantly and FLETC is currently evaluating the impact of the increased requests for training. If these requests are substantiated the FLETC will have to explore other options, including extended work days, realignment of training among sites under FLETC's scheduling control, and the use of other available Federal, State and local training resources on a periodic basis.

#### OFFICE FOR DOMESTIC PREPAREDNESS

Question. How does the Administration propose to allocate the \$500 million requested for firefighters and the \$500 million proposed for law enforcement? For example, do you intend to retain the current grant programs now being managed by the Emergency Preparedness and Response Directorate (formerly FEMA) which provide emergency management performance grants to states or grants directly to fire departments through the Assistance to Firefighters Grant program?

Answer. There are two separate allocations of \$500 million in the fiscal year 2004 request. One \$500 million allocation will be for the traditional Fire Act program being transferred from FEMA. Since its inception, DHS's Office for Domestic Preparedness has enjoyed a strong relationship with the nation's fire service. The planned transfer of the Fire Act program to ODP will not change the manner in which the program is administered nor is it an attempt to merge the program with ODP's formula grant program. The program will continue to be managed consistent with the statutory requirements as a direct, competitive grant program to address the health and safety of firefighters.

The other \$500 million allocation request for State and local law enforcement for terrorism preparedness and prevention activities which include: training and equipment for WMD events, support for information sharing systems, training of intelligence analysts, development and support of terrorism early warning methods, target hardening and surveillance equipment, and opposition force exercises.

Question. There was controversy during consideration of the Homeland Security Act as to whether the Department's Border and Transportation Security Directorate or its Emergency Preparedness and Response Directorate should properly manage and oversee the first responders program. Do you believe that the Office for Domestic Preparedness is properly placed under the Department's Border and Transportation Security Directorate?

Answer. I support moving ODP to the Office of State and Local Coordination. With ODP's ever-expanding responsibilities and broadening scope, I think it is important for the agency providing funding to States and locals to reside within the office assigned in acting as liaison to those very States and locals. Therefore, the proposition of moving ODP from BTS to the Office of State and Local Coordination will

be a means to several ends. Moving ODP will enhance the Office of State and Local Coordination because of ODP's long standing relationships with State and local public safety agencies and responders. Perhaps most importantly, a move will give DHS a ``one-stop-shop'' for all first responder funding within the Department.

Question. No additional funding is requested for fiscal year 2004 for critical infrastructure protection grants (funded in the fiscal year 2003 Emergency Wartime Supplemental Appropriations Act) or for high-threat urban areas (funded in the fiscal year 2003 Consolidated Appropriations Act and the fiscal year 2003 Emergency Wartime Supplemental Appropriations Act). Do you foresee a need to continue funding for either of these grant programs in fiscal year 2004?

Answer. The \$200 million appropriated in the 2003 Emergency Wartime Supplemental Appropriations Act was for reimbursement of states for expenses incurred protecting critical infrastructure during Operation Liberty Shield.

Urban Area Security Initiative (UASI) was developed and implemented after the fiscal year 2004 budget request was developed. We believe the states will find this program an integral part of their strategic planning, and continue to fund it with grant funds ODP allocates to them on an annual basis.

Question. First responders funding has been awarded to states with a pass-through to local governments on the basis that statewide plans are developed to deal with the issues of terrorism preparedness, vulnerability assessments and the like, and that the funds be spent by the States and local governments consistent with this plan. How important do you believe the statewide plans are in assuring the proper expenditure of this assistance at the State and local level?

Answer. The State Homeland Security Strategy is designed to give each state and territory one comprehensive planning document that includes response requirements for a WMD terrorism incident, irrespective of the sources of funding. It is developed based on assessments of threats, vulnerabilities, capabilities at both the State and local jurisdiction levels. It should serve as a blueprint for the coordination and enhancement of efforts to respond to WMD incidents, using Federal, State, local, and private resources within the State. Because of the importance of this information, the grants are awarded based on the submission of this state plan to ensure the state uses the funds according to the needs identified in the strategy.

There have been many concerns from the government as well as first responders in the field regarding the grant funding reaching local jurisdictions in a timely manner. Therefore, the fiscal year 2003 State Homeland Security Grant Program I (SHSGP I) and SHSGP II incorporate a strict timeline to facilitate the release and obligation of this funding.

The SHSGP I application kit was posted online on March 7, 2003. States had to submit their applications to ODP within 45, by April 22, 2003. Applications were reviewed at ODP within 7 days of submission. Once approved by ODP, grants will be awarded to the States within 21 days. States have 45 days to obligate funds from the time the grant is awarded. As mandated by Congress, 80 percent of the equipment funds must be provided to local units of government. The required bi-annual Categorical Assistance Progress Reports must reflect the progress made on providing funds to the local jurisdictions.

The SHSGP II application kit was posted online on April 30, 2003. States must submit their applications to ODP within 30 days, by May 30, 2003. Applications will be reviewed at ODP within 7 days of submission.

Once approved by ODP, grants will be awarded to the States within 21 days. States have 45 days to obligate funds from the time that the grant is awarded. As mandated by Congress, 80 percent of the total amount of the grant to each State must be provided to local units of government. The required bi-annual Categorical Assistance Progress Reports must reflect the progress made on providing funds to the local jurisdictions.

Question. In testifying before the Senate Appropriations Committee on the fiscal year 2003 supplemental request and again before this Subcommittee last week, Secretary Ridge indicated that there may be reason to rethink how we distribute future terrorism preparedness funding, whether the population-based distribution formula historically used by the Office for Domestic Preparedness is appropriate, or whether it should take into account such factors as threat, vulnerability, critical infrastructure needs, and the like. Does the Administration plan to propose a formula change for distributing this funding? What formula change will you be seeking?

Answer. The current formula for the allocation of ODP funds to the States for the fiscal year 2003 State Homeland Security Grant Program (SHSGP) I and SHSGP II was computed on a base, pursuant to the Patriot Act, plus a population formula. Starting in fiscal year 2004, the Department will seek to make changes in how it distributes funding to the States. Each State and territory will continue to receive a base amount, but the balance of funds will utilize a multi-faceted formula, taking into account factors including threat and risk assessments, critical infrastructure of national importance, and population density.

Until the overall formula is changed, each State must take into consideration needs and capabilities when allocating their State funds to local jurisdictions.

Question. What formula was used to award the approximately \$100 million in fiscal year 2003 funds for grants to high-threat urban areas announced by the Department on April 8, 2003, for distribution to seven U.S. cities (New York City, N.Y.; Washington, D.C. and the National Capital Region; Los Angeles, CA; Seattle, WA; Chicago IL, San Francisco, CA; and Houston, TX)? Do you expect to use this same formula to award the additional \$700 million provided in the fiscal year 2003 Emergency Wartime Supplemental Appropriations Act?

Answer. While the specifics of the formula used to award the approximately \$100 million, and subsequent \$700 million, for the Urban Areas Security Initiative is classified, it includes a weighted linear combination of current threat estimates, critical assets within the urban area, population and population density, the result of which is used to calculate the proportional allocation of resources.

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Questions Submitted by Senator Pete V. Domenici

UNMANNED AERIAL VEHICLES AT THE LAS CRUCES, NEW MEXICO INTERNATIONAL AIRPORT

Question. I was pleased to learn of Secretary Ridge's interest in using unmanned aerial vehicles (UAVs) for improved surveillance along our nation's borders. I strongly support such action to improve our nation's ability to patrol our borders, particularly in less-populated areas.

Southern New Mexico is already the site of ongoing UAV flights out

of the Las Cruces International Airport. This airport is the headquarters of New Mexico's emerging UAV Center of Excellence, the newly formed joint regional UAV Systems and Operations Validation Facility (USOVF), a partnership between the 46th Test Group at Holloman Air Force Base and the Physical Science Laboratory of New Mexico State University. The USOVF is pre-approved by the Federal Aviation Administration for file and fly in a regional flight area of 300,000 square miles in the western United States. The Las Cruces International Airport is situated less than 40 miles from the U.S.-Mexico border, and in a central location among U.S. border states.

I understand that Senator Stevens is interested in using UAV's to patrol the maritime border between Alaska and Russia in the Bering Straight. What do you anticipate will be the size and scope of the Department of Homeland Security's deployment of UAV's on our borders?

Answer. BTS has asked the Science and Technology Directorate to evaluate the use of UAVs in a Border and Transportation Security environment. S&T was also asked to evaluate other potential applications.

Question. What funding and facilities will the Department need for a UAV program?

Answer. Until the requirements have been scoped to determine the feasibility and extent of a UAV program, we cannot predict what amount of funding and the type of facilities might be appropriate for the Department to implement a UAV program.

Question. On what timeline will the Department implement this initiative?

Answer. At this time, it is unknown what the timeline would be for the Department to implement this type of initiative. A proposed project plan including milestones and deliverables is expected to be ready for review by June 2003. The project plan will discuss the BTS-specific project as well as strategies in developing UAV initiatives in the near, mid, and long term for DHS venues such as borders and ports.

Question. Based upon the characteristics of the Las Cruces, New Mexico International Airport, could you provide an assessment of its potential for utilization by the Department of Homeland Security for serving as a platform for the deployment of UAV's for Homeland Security purposes?

Answer. Based upon the description of the Las Cruces, New Mexico International Airport, the facility appears to have potential for serving as a platform for UAV deployment for Homeland Security purposes. After UAV program feasibility, requirements and scope is determined a more detailed assessment on available testing and deployment facilities would need to be made.

#### BORDER ISSUES

Question. It has been 17 years since the Federal Government launched a major effort to upgrade U.S. borders and that effort focused only on the Southwest border.

I have just sponsored the Border Infrastructure and Technology Modernization Act (S. 539). The new bill will focus on U.S. borders with Canada as well as Mexico. This bill has the dual goals of facilitating the efficient flow of trade while meeting the challenges of increased security requirements.

This will include:

- More funding for equipment at our land borders
- Additional funding for personnel

--Additional funding for training, and  
--Additional funding for industry/business partnership programs along the Mexican and Canadian borders.

It is important for the border enforcement agencies to work with the private sector on both sides of the border and reward those partners who adopt strong internal controls designed to defeat terrorist access to our country.

What are your thoughts on the importance of trade partnership programs along the Southwest border?

Answer. Industry Partnership Programs (IPP) allow the BCBP to expand our influence beyond the borders and into Mexico, Central America, South America and the Caribbean. Under the umbrella of the Customs-Trade Partnership Against Terrorism (C-TPAT), these priority initiatives include the Land Border Carrier Initiative Program (LBCIP), the Business Anti-Smuggling Coalition (BASC) and the Americas Counter Smuggling Initiative Program (ACSI). Each IPP enables the Trade to tighten our borders through the enhancement of supply chain security standards that deter smugglers from using conveyances and cargo to smuggle terrorist devices and narcotics. These complementary programs benefit both BCBP and the private sector by securing the integrity of shipments destined for the United States while promoting the efficient flow of trade.

We are currently working on additional security requirements that take into account the additional terrorist and drug threat on the Southwest border for conversion of the LBCIP carriers to C-TPAT. BASC chapters have been established throughout Ecuador, Colombia, Costa Rica, Mexico, Panama, Peru, Venezuela and most recently in Jamaica, where a chapter was founded in March 2003. The ACSI Teams continue to support BASC through security site surveys, briefings on smuggling trends and techniques and security and drug awareness training.

The primary purpose of LBCIP is to prevent smugglers of illegal drugs from utilizing commercial conveyances for their commodities. Carriers can effectively deter smugglers by enhancing security measures at their place of business and on the conveyances used to transport cargo. By signing agreements with the BCBP, land and rail carriers agree to enhance the security of their facilities and the conveyances they use and agree to cooperate closely with BCBP in identifying and reporting suspected smuggling attempts.

BASC is a business-led, BCBP supported alliance created to combat narcotics smuggling via commercial trade that was formed in March 1996. BASC examines the entire process of manufacturing and shipping merchandise from foreign countries to the United States, emphasizing the creation of a more security-conscious environment at foreign manufacturing plants to eliminate, or at least reduce, product vulnerability to narcotics smuggling. BCBP supports BASC through ACSI, which are teams of BCBP officers that travel to the BASC countries to assist businesses and government in developing security programs and initiatives that safeguard legitimate shipments from being used to smuggle narcotics and implements of terrorism.

Question. What plans do you have to increase cooperation with the Mexican government on border issues?

Answer. Under the C-TPAT programs consisting of the Americas Counter Smuggling Initiative (ACSI), and the Business Anti-Smuggling Coalition (BASC), BCBP is engaging the Mexican trade community and Mexican Customs in a cooperative relationship against the smuggling of drugs and implements of terror. Meetings have been held with Mexican Customs through a bilateral U.S.-Mexican Government Working Group.

Through this working group, the United States and Mexico can work jointly through these programs to establish a secure supply chain between our countries, while facilitating cross border trade. BCBP is also working with Mexican Customs to identify what areas in Mexico should be targeted for the establishment of new BASC chapters.

Under the high-level United States and Mexico Customs Bilateral Working Group, a demonstration project to test a fast and secure lane at El Paso is underway. This bilateral program is designed to expedite and facilitate commercial truck crossings at the Ports of Entry (POEs) by implementing the mandated requirements of securing the flow of people, transportation, and goods under a secure infrastructure. This program is aimed at facilitating cross border trade, while improving and ensuring the supply chain security of the participants that range from manufacturing, to transportation, to importation.

BCBP has two ACSI teams travelling throughout Mexico to work with the BASC Chapters in Monterrey, Ciudad Juarez and Mexico City to prevent drug smugglers and elements of terrorism from using legitimate cargo to enter their illegal merchandise into the U.S. BASC, which was initiated in March 1996, continues to be a private sector business-led, BCBP supported alliance under C-TPAT that complements and enhances our efforts to secure the supply chain. C-TPAT is an anti-terrorism response to the events of September 11, 2001 which engages the trade community in a cooperative relationship with Customs in the war against terrorism. C-TPAT will work with foreign manufacturers, exporters, carriers, importers and other industry sectors emphasizing a seamless, security conscious environment throughout the entire commercial process.

#### FEDERAL LAW ENFORCEMENT TRAINING CENTER (FLETC)

Question. Congress created the Federal Law Enforcement Training Center (FLETC) to be the consolidated training center for almost all law enforcement agencies. As the law enforcement training arm of the Department of Homeland Security (DHS) it seems logical that FLETC should develop and conduct standardized training for all Homeland Security law enforcement and inspection personnel.

Such a training approach would ensure that all law enforcement personnel receive appropriate and consistent instruction. This is particularly important as you retrain and cross-train border agencies which have been merged under DHS (e.g. Customs, Immigration, and Agriculture Inspectors).

Congress specifically created the Federal Law Enforcement Training Facility in Artesia, New Mexico to handle the advanced and special training of almost all Federal law enforcement personnel.

In the past, Federal agencies have chosen not to use FLETC facilities for training and instead have contracted with non-Federal institutions. Over the past few years, Congress has provided over \$30 million for the FLETC Artesia facility, alone.

When the need for Federal Air Marshal training arose after September 11, FLETC-Artesia answered the call to duty by developing and providing this training in a remarkably short period of time. By way of example, FLETC-Artesia brought in three 727 airplanes for use in training to go along with the 18 firing ranges and 3 shoot-houses.

FLETC-Artesia boasts 683 beds, state-of-the-art classrooms, and a brand new cafeteria to accommodate approximately 700 students a day, yet it has been running at around 320 students during fiscal year 2003.

FLETC-Artesia's close proximity to the Southwestern border,

recently constructed facilities and optimal training conditions certainly suggest the center should be highly utilized by DHS.

Question. How do you intend to provide training for the newly hired DHS personnel as continued training for existing DHS personnel in light of the new security challenges facing our country?

Answer. As we enter a new era in law enforcement operations in the United States, the FLETC is a good example of the new government approach intended by the legislation creating the DHS: a means to harmonize the work of many law enforcement agencies through common training, while at the same time maintaining quality and cost efficiency. In fiscal year 2003, 65 percent of the FLETC's projected training workload will come from nine law enforcement agencies transferred to the new Homeland Security department. In fiscal year 2004, this workload will continue to be above 73 percent of our estimated total Federal training workload.

FLETC intends to work closely with all segments of DHS. Placing FLETC within the DHS will help to support the ``unity of command'' and the coordination and efficiency themes sought in the public law that created DHS. FLETC has a long history of service to many of the DHS components--the U.S. Secret Service, the former Customs and Immigration and Naturalization Services including the U.S. Border Patrol (USBP), the Federal Protective Service, and more recently, the Transportation Security Administration (TSA).

With the start-up of the Bureaus of Customs and Border Protection and Immigration and Customs Enforcement, FLETC is ready to help facilitate, develop, and implement new training and cross training programs. We recognize that much of this effort and expertise will necessarily come from the agencies involved, but there likely will be significant adjustments made over time to all DHS-related training programs, basic and advanced. Already, an effort is underway to systematically review existing training for these new entities and to address whatever capabilities are needed to meld the duties of the participants. In the meantime, training will continue unabated to achieve all of the hiring expectations of our agencies.

Question. How do you intend to use FLETC facilities for training DHS employees?

Answer. The national ``war on terrorism'' precipitated by the events of September 11, 2000 placed new and increased demands on the nation's Federal law enforcement agencies. Officers and agents immediately began to work extended hours and many have been reassigned geographically and/or to expanded duties. Nearly all Federal law enforcement agencies made plans to increase their cadre of qualified officers and agents, and submitted urgent requests to the FLETC for basic law enforcement training far in excess of the FLETC's normal capacity. These requests were for increased numbers of graduates and for their speedy deployment to buttress the hard-pressed Federal law enforcement effort.

The events of September 11 also increased the need for certain advanced law enforcement training conducted at the FLETC, especially classes associated with such issues as counter-terrorism, weapons of mass destruction, money laundering, etc. Likewise, the need for instructor training classes increased, to strengthen the cadre of instructors qualified to handle the training surge--at the FLETC and within the agencies.

In addressing the unprecedented increase in training requirements, FLETC has conducted capability analyses to determine the set of actions most likely to result in optimum throughput without compromising the

qualifications of graduating officers and agents, and maximizing the use of each of its training facilities. With the consultation and concurrence of its partner organizations (POs), FLETC leadership directed that training be conducted on a 6-day training schedule (Monday through Saturday), thus generating a 20 percent increase in throughput capability. More importantly, the 6-day training schedule drives a corresponding compression of the length of each training program, effectively delivering each class of new law enforcement officers to their agencies weeks sooner than under the conventional training schedule. Should the 6-day training schedule be insufficient to meet the demand, an extended work day will be considered.

In addition to the 6-day training schedule, FLETC has expanded its staff with a supplemental cadre of re-employed annuitants (primarily retired Federal law enforcement officers) who are contributing their skills and experience as instructors to help sustain the surge in training operations. This is a 5-year authority provided by Congress in fiscal year 2002.

Further, the Federal Law Enforcement Training Center has been tasked by BTS with establishing a Training Academy Committee to identify and assess the training capabilities of all of the BTS training academies. This study will be the basis for determining the schedule and priority for training elements of DHS in a coordinated manner.

Question. How should DHS use FLETC Artesia's facilities and specialized training capabilities?

Answer. FLETC intends to utilize its Artesia facility to its maximum potential. I have tasked the Federal Law Enforcement Training Center with establishing a Training Academy Committee to identify and assess the training capabilities of all of the BTS training academies. The Committee will use a two-phase methodology to identify the training assets and to develop a plan for operating the facilities employed by each of the Directorate's bureaus, and will also include the Coast Guard, Secret Service, and the Bureau of Citizenship and Immigration Services. The operational plan will provide the framework for coordinating academy training in all BTS bureaus. The Committee will develop and submit a report at the conclusion of each phase. Once the Committee has identified all of the BTS training capabilities, FLETC can develop a more definitive utilization plan for Artesia and all other sites.

#### PURCHASE OF THE TOWN OF PLAYAS

Question. Approximately 1 week ago, I sent you a letter suggesting the Department of Homeland Security purchase the town of Playas for the training of state and local first responders.

As you are aware, Playas is a deserted company town in Southern New Mexico that could be used as a real world anti-terrorism training center.

Playas incorporates almost 260 homes, several apartment buildings, a community center, post office and airstrip, a medical clinic, churches and other typical small town structures.

This town would cost the government \$3.2 million dollars--a bargain that should not be passed up. While Federal law enforcement has access to modern training facilities at FLETC, state and local first responders do not have access to the same quality of facilities. Playas can meet this vital need in a cost-effective manner.

Currently, New Mexico Tech, a member of Homeland Security's

National Domestic Preparedness Consortium, has put together a proposal for the Department of Homeland Security through their Office of Domestic Preparedness to purchase Playas.

Question. What role do you foresee Playas playing in the defense of our homeland?

Answer. At this time, a decision as to the role of Playas is undetermined, although the site could have potential value in a national training architecture. Playas' usefulness as a location for homeland defense preparedness training must first be assessed through a feasibility study to determine if acquisition of the property will make a contribution to the national first responder training program.

Question. Will you evaluate the feasibility of using Playas as a training site for State and local first responders before we lose this unique opportunity?

Answer. A feasibility study to determine the potential use of Playas as a training center would be the first step in the decision-making process. If upon review of the completed feasibility study a decision is made to move forward with utilizing the property for a training facility, a detailed plan will be developed to determine the most advantageous manner in which to acquire the property. This would be a lengthy process given the many legal issues involved, particularly if the decision is for the Federal Government and ODP to purchase or lease the property.

#### NATIONAL GUARD ISSUE

Question. I have been told that the Department of Defense has decided to terminate National Guard support to the Department of Homeland Security's border inspection operations. I believe that the National Guard has been an intricate partner with Customs for well over a decade, providing the extra hands necessary to help inspect cargo at our land borders, seaports, and mail facilities. I believe there are approximately 350 National Guardsmen working alongside Customs in this capacity, at any given time.

This work is of particular importance to New Mexico on our border with Mexico. There are approximately 52 guardsmen along the New Mexican border supporting a total of 90 plus Customs, Immigration and Agriculture inspectors. It is my understanding that for every guardsman who works searching cargo or screening mail allows an extra Department of Homeland Security (DHS) inspector to be on the frontlines looking for terrorists.

As I understand, the Defense Department would like to place these guardsmen in positions (along the U.S. border) that are more ``military unique'', such as intelligence collection.

Is now the time for DOD to move these guardsmen from these critical positions?

Answer. In September 2002, DOD officially informed the U.S. Customs Service, now Bureau of Customs and Border Protection (BCBP), that they would discontinue funding National Guard counternarcotics support of BCBP's Cargo and Mail Inspection operations (the only BCBP operations supported by National Guard soldiers) effective September 30, 2003. DOD subsequently changed this date to September 30, 2004. The reason for discontinuing the National Guard support, as stated by DOD officials, is that they wish to phase out all National Guard counternarcotics support that does not require unique military skills.

As a result of the September 2002 notification, aggressive hiring strategies to offset any negative impact of losing National Guard

support were implemented. Through regular appropriations, supplemental funding and an overall increase in our inspector corps as a result of the March 1, 2003 transition to BCBP, our agency is prepared to do without National Guard support beginning October 1, 2004.

Question. Shouldn't we be increasing the number of guardsman at our borders?

Answer. As a result of the significant increase in BCBP staffing, as outlined above, it is not necessary to retain National Guard support at our borders, nor is it necessary to increase the number of National Guard soldiers at the border locations. BCBP welcomes National Guard support beyond September 30, 2004, but the support is not critical for BCBP to accomplish its mission.

Question. If DOD pulls the Guard from the border will DHS need more funding to replace personnel?

Answer. No. Through regular appropriations, supplemental funding and an overall increase in our inspector corps as a result of the March 1, 2003 transition to BCBP, our agency is prepared to do without National Guard support beginning October 1, 2004.

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Questions Submitted by Senator Ben Nighthorse Campbell

#### FIRST RESPONDERS

Question. A portion of your budget is dedicated to managing the Department's First Responder initiative, and providing grants for preparedness. Within this initiative, you plan to award grants to states to address the equipment, training, planning and exercise needs (as recognized in their updated response plans, which identified goals and objectives for preparedness, State and local enforcement anti-terrorism initiatives, and Citizen Corps preparedness activities). What do you believe is the most efficient way to get funding into the hands of those first responders, who so desperately need it?

Answer. There have been many concerns from the government as well as first responders in the field regarding the grant funding reaching local jurisdictions in a timely manner. Therefore, the fiscal year 2003 State Homeland Security Grant Program I (SHSGP I) and SHSGP II incorporate a strict timeline to facilitate the release and obligation of this funding. Also, as mandated by Congress, 80 percent of the equipment funds in the SHSGP I, and 80 percent of the total amount of the grant to each state in the SHSGP II, must be provided to local units of government. The required bi-annual Categorical Assistance Progress Reports for both grant programs must reflect the progress made on providing those funds to local jurisdictions.

Question. Can you explain to me the process in place for awarding the grant program?

Answer. The fiscal year 2003 State Homeland Security Grant Program I (SHSGP I) application kit was posted online on March 7, 2003. States had to submit their applications to ODP within 45 days, by April 22, 2003. Applications were reviewed at ODP within 7 days of submission. Once approved by ODP, grants will be awarded to the States within 21 days. States have 45 days to obligate funds from the time the grant is awarded.

The SHSGP II application kit was posted online April 30, 2003. States must submit their applications to ODP within 30 days, by May 30, 2003. Applications will be reviewed at ODP within 7 days of submission.

Once approved by ODP, grants will be awarded to the States within 21 days. States have 45 days to obligate funds from the time the grant is awarded.

#### TRANSPORTATION SECURITY ADMINISTRATION

Question. In the hours following the attacks on the Pentagon and the World Trade Center, it was clear that the lines of communication between everyone involved in air travel--the FAA, Federal authorities, airlines, and customers--was severely deficient, if not to say completely inadequate. What steps have been taken to improve this so that information moves quickly and accurately from the air traffic controllers to the airlines to the passengers, and most importantly, to the appropriate agencies in the event of another emergency?

Answer. The communications flow between air traffic controllers, airline corporate headquarters and security divisions, Department of Defense, and other Departments occurs under processes established among the Federal Aviation Administration, Transportation Security Administration, Department of Homeland Security, and the Department of Defense. In cases where there is a known threat to aviation security, the agency that identifies the threat establishes communications with the other agencies via established conference calls, at which time all command centers are brought into a coordination conference call. In addition to these interagency conference calls, each agency initiates calls within its own organization for coordination with internal response and information sources to build and maintain situational awareness. The Transportation Security Administration establishes direct links to internal and external agencies via secure and non-secure means for information gathering and direction. The communication systems are tested regularly to identify and correct glitches in the lines of communication so that we are confident there will not be any problems in a real emergency. At the end of every test, we conduct an outbrief to review the exercise and identify areas for improvement. These communications links encompass the full spectrum of agency capabilities to respond to any threat to aviation security. Additional details on the secure elements of the communication links can be provided in a classified setting.

#### AIR MARSHALS

Question. On September 11th, it became apparent that our nation's protectors of the commercial skies, the U.S. Air Marshals, needed to be in better communication--not only with their superiors but also with each other. Who knows what could have been averted, and how many lives could have been saved had communications technology been available.

I know that over the past year or so, the TSA has been working with technology companies in order to develop a communications system that allows the air marshals to communicate in real time with officials on the ground, as well as other air marshals stationed on other commercial aircraft. I think this is necessary so that our air marshals are not isolated at 30,000 feet.

Do you have any knowledge of the progress of this technology development?

Answer. Pursuant to House Conference Committee Report 107-593, TSA's Federal Air Marshal Service (FAMS) was provided \$15 million to begin implementation of an Air to Ground Communications program. TSA intends to utilize this funding to purchase a Commercial Off-the-Shelf

(COTS) product, which includes hardware and software, for implementation of the Air to Ground communications system. This initial system will allow FAMS to utilize a portable, quickly deployable air to ground communications system which will seamlessly integrate existing FAMS wireless technology. This comprehensive wireless communications system may also be used by other local, State, and Federal agencies, and the Department of Defense, to achieve secure communications through a dedicated law enforcement network.

#### BAGGAGE SCREENERS

Question. The TSA recently announced plans to eliminate 3,000 more airport screening jobs by the end of September, coupled with 3,000 others announced in March, amount to about 11 percent of the 55,600 screeners employed.

This plan will save the TSA an estimated \$280 million. I applaud the TSA's effort to trim their budgetary needs, however, is a good idea to cut the work force and putting some workers on part-time hours? Do you believe this to be a wise decision at this time?

Answer. TSA acknowledges the requirement to reduce and redistribute some of the screener workforce. Getting the right number of screeners at airports will continue to be a management challenge. It will be essential for us to use our work force in a flexible manner if we are to avoid long lines after the reduction. Part time employees will be essential for staffing checkpoint lanes during peak periods. Through the implementation of good management principles and practices, TSA will be able to maintain its charter of world-class security with a more efficient, more effective screener workforce.

Question. Will we still have enough workers to screen 100 percent of the bags?

Answer. Yes. The resulting workforce, made up of full and part time employees, will be able to electronically screen 100 percent of the bags when the balance of baggage screening equipment is deployed to the remaining airports.

#### AIR TRAFFIC CONTROLLERS

Question. A year ago, we discussed the need for accountability in the security screeners and airport employees as a whole. Then Congress passed the Aviation and Transportation Act which federalized those employees. Recently, President Bush issued an executive order that deleted the clause in a previous order signed by President Clinton that described air traffic control as an ``inherently governmental function.'' The Administration has proposed studying whether to hire a private company to take over the air traffic control system. What effect will privatizing the Air Traffic Controllers will have on the current system?

Answer. Because the safe operation of the Nation's air traffic control system is the responsibility of the Federal Aviation Administration (FAA), an agency within the Department of Transportation (DOT), this question is more appropriately addressed to that agency.

Question. Do you believe it will solve current issues, or create problems?

Answer. Because the safe operation of the Nation's air traffic control system is the responsibility of the Federal Aviation Administration (FAA), an agency within the Department of Transportation (DOT), this question is more appropriately addressed to that agency.

## CROSS-CHECK OF PASSENGER IDENTITY

Question. When passing the Aviation and Transportation Act, Congress felt the need to include the Computer Assisted Passenger Pre-screening System (CAPPS II). CAPPS II would scan government and commercial databases for potential terrorist threats when a passenger makes a reservation. Under this program, passengers will be required to provide their full name, address, telephone phone number, and date of birth. The airline computer reservation system will then automatically link to the Transportation Security Administration (TSA) for a computer background check that can include credit, banking history, and criminal background checks. The TSA will then assign a score to the passenger based on the agency's risk assessment of the traveler.

However, the Office of Management and Budget (OMB) has doubts about the project and believes that there may be better use for the money slated for this project, and has the power to remove the project if they deem appropriate. Not to mention the potential infringement on personal privacy, and the possibility for mistakes effecting innocent people.

Do you believe the CAPPS II program is necessary, and what are you doing to ease the OMB's worries regarding the program's effectiveness and operation?

Answer. Yes, TSA believes that the CAPPS II program is necessary. Not only will it enhance security, but it will improve security resource allocation (including screeners and FAMs) and it will relieve the airlines of the burden of running the current CAPPS program (estimated at \$150-200 million annually). TSA has submitted a Business Case for CAPPS II which is under review.

## QUALIFIED ANTITERRORISM TECHNOLOGIES

Question. The Homeland Security Act of 2002 (Sections 862) provided the Department of Homeland Security with authority to compile a list of ``qualified antiterrorism technologies'' that would qualify or receive certain protection under that Act. Has this list been compiled? If not, why?

Answer. The list of ``qualified antiterrorism technologies'' has not yet been compiled. The regulations to govern implementation of the SAFETY Act must be completed before the SAFETY Act can be implemented. Promulgation of these regulations is a high priority, and DHS is working with the Office of Management and Budget (OMB) to finalize an initial set of SAFETY Act regulations. We expect to publish these regulations for comment very shortly. Following the public comment period, the regulations will be finalized and issued. As soon as the regulations are issued, applications can be made to DHS for consideration of possible technologies that are determined to meet the criteria set forth in Subtitle G, Sec. 862.

Question. If this list has been compiled, can Members of this Committee get a copy of this list?

Answer. This list has not yet been compiled; please see answer to Question BTS-S56 for current status.

Question. How would a company that has an antiterrorism technology be considered for approval?

Answer. DHS has developed plans for both an immediate implementation path, and for a longer-term ``ideal state'' process, to implement the SAFETY Act. Public notification of the application

process and of the select categories of technologies that will be considered for certification will be made through the DHS website after regulations are issued.

Question. Do they need to wait for the rulemaking process to be completed to apply for approval?

Answer. Yes, companies will need to wait until after the rulemaking process has been completed. DHS does not yet have an application or approval process in place. Final application and approval processes are contingent upon issuance of regulations. DHS wants to ensure that applicants are well informed about requirements so that they can make informed decisions regarding submitting their technologies for consideration.

Question. If so, when will that process be completed?

Answer. Until DHS and OMB have completed their review and issued guidance for the actual implementation of the SAFETY Act, it is not possible to determine an actual date for completing the process. However, the Department does place a high priority on completing the necessary guidance and regulations and is prepared to act quickly after issuance of the guidance.

#### BORDER SECURITY

Question. This Directorate arguably has one of the toughest jobs in the Department. Ideally, if this Directorate performs its job to perfection, then the concerns of terrorists coming into our country to attack our citizens or our infrastructure are reduced to a great extent. With 7,500 miles of land borders with Canada and Mexico and 95,000 miles of coastline to keep watch over, short of building a large wall around the country, how much success have you had in strengthening our border security?

Answer. The priority mission BCBP is to detect and prevent terrorists and terrorist weapons from entering the United States at and between Ports of Entry (POEs) while simultaneously facilitating legitimate trade and travel.

In order to carry out its priority mission, BCBP has developed and is implementing Smart Border initiatives with other nations and with the private sector, such as the Container Security Initiative (CSI), the Customs-Trade Partnership Against Terrorism (C-TPAT), NEXUS, and the Free and Secure Trade (FAST) Program, and will continue to push our zone of security outwards.

Our layered inspection process and the components of a Smart Border include:

- Advance electronic information
- Automated targeting tools
- Identifying and facilitating low-risk travelers and shipments
- Non-intrusive inspection technology
- Industry partnerships
- Training
- Pushing security beyond our borders

BCBP uses various large-scale, portable and hand-held technologies in different combinations to substantially increase the likelihood that a nuclear or radiological weapon or weapons grade material will be detected. We have identified and are deploying nuclear and radiological detection equipment to include personal radiation detectors, portal radiation monitors and radiation isotope identifier devices.

In combination with our layered enforcement process, these tools currently provide BCBP with significant capacity to detect nuclear or

radiological materials.

Additional initiatives include, but are not limited to:

- Training to further develop a highly skilled and trained workforce;
- Sensors to remotely monitor low volume ports of entry; and
- Exchange of intelligence and information to identify potential nuclear and radiological smuggling threats.

Our goal is to examine 100 percent of all high-risk cargo and conveyances and to screen all high-risk people, cargo and conveyances for radiation. The Border Patrol, a component of the Bureau of Customs and Border Protection, is responsible for preventing the illegal entry of any persons crossing between the ports of entry along the 8,000 miles of international border with Canada and Mexico. To accomplish this enormous mission, there are currently over 10,000 agents deployed on the border to deter, detect, and apprehend any illegal entrants at the border. These dedicated agents have historically arrested in excess of 1,000,000 illegal entrants annually. In order to improve the enforcement effectiveness of these agents, the use of technology and enhanced detection systems are continuing to be deployed along the border. In addition to the technology, additional border barriers, high intensity lighting units and improved border roads have been used to assist the agents in providing the maximum in border security measures between the ports of entry. The success of these measures has recently lead to reductions in illegal entry arrests along certain major border areas, as well as the continued disruption of organized smuggling efforts on the border.

Question. Are any of these projects visible to our country's citizens to make them feel safer?

Answer. BCBP has developed a multi-layered process to target high-risk shipments while simultaneously facilitating legitimate trade and cargo. Our Smart Border initiatives include components that are invisible to a majority of the traveling public. These include cooperative efforts with other nations to push security beyond our borders, advance electronic information, automated targeting tools, intelligence and partnering with industry.

Portions of our layered enforcement process are highly visible to the general public. These include our inventory of hand-held, portable and large-scale non-intrusive inspection (NII) technologies deployed to our nation's air, land and seaports of entry, as well as the additional personnel and canine resources necessary to support the technology.

Many of the Border Patrol's newest assets are visible to the citizens who reside in our many border communities. Those assets include the latest in state of the art helicopters, which frequently patrol over these communities. In addition, there are infrastructure improvements in fencing, checkpoint facilities and expanded canine units for locating persons and contraband hidden in vehicles and train boxcars. Also visible to our citizens is the increase in the number of agents patrolling in marked sedans and four-wheeled drive trucks along the border. In addition, every Border Patrol sector has a community out-reach program to educate and inform the local communities of the activities of the Border Patrol and to reassure the citizens of the Patrol's efforts in providing security along the border of the country. While many of the assets used by the Border Patrol are not readily visible to the public, such as surveillance and detection equipment, the results of the increased presence of agents along the border continues to be favorably noted by the local media and civic organizations in many border communities.

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Questions Submitted by Senator Robert C. Byrd

#### EXPIRATION OF COBRA FEES

Question. The COBRA fees--which fund nearly all overtime for the legacy Customs inspectors among others--expire at the end of this fiscal year. Have you submitted legislation to the appropriate authorizing committees and discussed with them the need for the extension of these fees? Also, what contingency plans, if any, do you have in place to cover the costs of the current COBRA-funded functions should the fees not be extended in time?

Answer. We have briefed both the House Ways and Means Committee and the Senate Finance Committee staffs on the need for an extension of the COBRA fees, and both Committees have developed proposals to extend the fees. The expiration of the COBRA fees will present numerous problems for BCBP, as well as fee paying parties-in-interest. Other existing statutes require that airlines be billed for overtime services and preclearance (19 USC 267 and 31 USC 9701) and that foreign trade zones and bonded warehouses be billed for inspectional and supervision services (19 USC 81n and 19 USC 1555). Other charges, such as fees for reimbursement of compensation of boarding officers under 19 USC 261 will also need to be reinstated. These statutes are held in abeyance while the COBRA fees are in effect (see 19 USC 58c(e)(6)). While the reimbursements from these other statutes would offset some of the losses from the expired COBRA fees, the amounts are not expected to be significant. If the COBRA fees expire, service to international passengers and the trade would need to be reduced to a level commensurate with available funding.

It should also be noted that the failure to reauthorize the fees provided for under the COBRA statute (19 USC 58c) will result in an additional loss in collections of approximately \$1 billion annually. This represents the Merchandise Processing Fees, which are deposited into the General Fund of the Treasury as an offset to the commercial operations portion of the BCBP budget.

legacy custom service and immigration and naturalization service fees

Question. A significant portion of the budgets of the new Bureaus of Customs and Border Protection and Immigration and Customs Enforcement are based on the assumed collection of fees from the legacy Customs Service and Immigration and Naturalization Service. What happens if these fees do not materialize or materialize at levels lower than estimated? How do you intend to bridge that funding gap should one occur?

Answer. If funding shortages occur because of smaller fee receipts, BCBP will adjust the level of inspection services accordingly in order to function within available resources.

#### ANTI-DUMPING AUTHORITY (BICE AND BCBP)

Question. What is the expected cost in fiscal year 2003 of administering the anti-dumping authority in section 754 of the Tariff Act of 1930 (19 USC 1675c)?

Answer. While enforcement of the Tariff Act is a major priority of the BCBP, its efforts to enforce this legislation cut across many different programs and organizations which are concurrently performing a variety of trade compliance functions within BCBP. Therefore, the

cost of BCBP's enforcement efforts in this area is not easily tracked or monitored in a way that enables BCBP to provide a quick and easy answer to this question. Ultimately, any answer would be an estimate of BCBP's costs.

#### BUDGET DOCUMENTS

Question. The budget justification documents for BCBP and BICE do not include detailed legacy information on the agencies/accounts broken out in a manner similar to that which used to be provided by the former Customs Service. Was information provided to the Department by the former Customs Service staff prepared in that format? Please provide the Subcommittee with a copy of that submission to assist us in tracing the budgets from fiscal year 2003 to fiscal year 2004?

Answer. The former Customs Service did not provide a draft of the FISCAL YEAR 2004 BUDGET TO THE DEPARTMENT IN ITS TRADITIONAL FORMAT.

DHS FIRST 100 DAYS

Question. Secretary Ridge noted in his list of the Department's accomplishments for the 1st 100 days that BCBP had ``acquired and deployed additional ``A-STAR'' and ``HUEY'' helicopters to bolster enforcement efforts along the U.S. Southern border''. With what fiscal year funds were these aircraft purchased? Are other rotary or fixed-wing aircraft in the procurement pipeline? If so, where is their planned deployment?

Answer. The purchase of the additional ``A-STAR'' helicopters was made in fiscal year 2002 with funding received from counter-terrorism supplemental appropriations in that year. The ``HUEY'' helicopters were obtained through the military on-loan program for special operations and tactical training requiring the mission capabilities of that aircraft. The deployment of the ``HUEY'' helicopters to bolster border enforcement operations occurred in fiscal year 2002.

#### NATIONAL CAPITOL REGION AIRSPACE PROTECTION

Question. Last week, in his commemoration of the first 100 days of the new Department of Homeland Security, Secretary Ridge noted that the Department's Bureau of Immigration and Customs Enforcement Office of Air and Marine Interdiction has, ``provided 24-7 airspace security coverage over Washington, D.C.'' I understand that Blackhawk helicopters were transferred to this area to provide this ``airspace security''. How many assets have been assigned to this region and from which parts of the country are they being borrowed? How long are they expected to be assigned to this region? What are the impacts on the on-going operations at the other regions from which these assets have been borrowed? Is there a long term ``fix'' in the planning stages for this problem? Does the Department intend to establish an air security branch for the National Capitol Region?

Answer. The Bureau of Customs and Immigration Enforcement (BICE), Office of Air and Marine Interdiction (OAMI) is providing two Blackhawk helicopters and two Citation Tracker aircraft with associated aircrews and support personnel for National Capital Region (NCR) air security operations. Additionally, OAMI is providing Detection Systems Specialists (DSSs) and four operator consoles from the Air and Marine Interdiction Coordination Center to establish and provide 24-7 law enforcement air surveillance to the NCR. These assets are drawn from

throughout the OAMI program and are rotated on a regular basis to minimize the impact to any one sector. The impact on aircraft maintenance at the other regions is the reduction of man-hours. There is no expectation of this mission terminating.

Question. Given the importance of all of these missions, as well as the limited number of Department air assets, why are no funds requested in your fiscal year 2004 budget for additional aircraft? Further, if you decide to create a National Capitol Region program, how much money is required to do so?

Answer. The Department of Homeland Security's fiscal year 2004 budget will leverage existing assets to accomplish this mission.

#### RESTRUCTURING AIR AND MARINE PROGRAM

Question. What are the plans for updating and restructuring the Air and Marine program? Will pilots who train and graduate from the same academy as agents be eligible to become 1811's? Will there be any equipment upgrades? Will there be new offices set up in the New York Metro and National Capitol Region? Will new offices with assets in these areas be cost effective in the event of changing security levels?

Answer. In addition to NCR coverage, OAMI has developed plans to expand air security and interdiction operations beyond the traditional southern focused alignment to include the Northern Border. Currently OAMI has a ``permanent'' temporary air unit in the Northwest and routinely deploys air units to other Northern Border locations. Also, in order to meet the increased demands from Northern Border operations, OAMI plans to increase the capacity of the OAMI national training and standardization center to include flight simulators. This will increase the safety and proficiency of OAMI personnel.

BICE Special Agents, Pilots, Air Interdiction Officers, Air Enforcement Officers and Marine Enforcement Officers attend and graduate from the Federal Law Enforcement Training Center. Graduation from this academy qualifies personnel as Criminal Investigators (1811).

The OAMI Modification Plan is a living document and currently under revision. Previous versions have been forwarded to OMB and Congress for consideration. This includes equipment upgrades as well as recapitalization of aircraft and vessels. OAMI has a standing requirement to upgrade operational equipment to keep pace with technological advancements.

Currently there are no plans to set up additional offices in New York City other than the existing Air Unit. However, AMI has established a communication and radar surveillance infrastructure for the New York City area that can be easily accessed and used for training or operational events. There is a plan for a National Capital Region Air Branch and NCR Coordination Center.

#### OPERATION GREENQUEST

Question. By all accounts, the on-going anti-terrorism initiative known as ``Operation Greenquest'' is working quite well. However, there have been rumblings that the FBI may be attempting to take control of the Operation from the Department's Bureau of Immigration and Customs Enforcement. Is this true? If so, does the Department support shifting control of the program from legacy Customs to the FBI? For what reason? What is the status of negotiations with other Departments and agencies regarding terrorism financing (Operation Greenquest) and Narcotics investigations (Title 21)? Are you pushing to ensure that ICE Agents

retain this authority?

Answer. In an effort to unify the U.S. Government's war against terrorist financing, the Departments of Homeland Security and Justice entered into a Memorandum of Agreement (MOA) on May 13, 2003. This MOA assigns lead investigative authority and jurisdiction regarding the investigation of terrorist finance to the Federal Bureau of Investigation (FBI).

Those cases that are determined to be ``terrorist financing'' cases will be investigated only through participation by the Bureau of Immigration and Customs Enforcement (BICE) in the FBI Joint Terrorism Task Forces (JTTF). All appropriate BICE-developed financial leads will be reviewed by the FBI, and if a nexus to terrorism or terrorist financing is identified, the leads will be referred to the JTTF under the direction of the FBI's Terrorist Financing Operations Section (TFOS). There are no provisions in the current agreement between DHS and DOJ that allow for delegation of authority of terrorist financing investigations.

In accordance with BICE's independent authority and jurisdiction relative to other financial crimes and money laundering investigations, BICE will be the lead investigative agency for financial investigations that are not specified as ``terrorist financing'' cases. BICE will continue to vigorously and aggressively proceed with its DHS mission to target financial systems that are vulnerable to exploitation by criminal organizations, and to protect the integrity of U.S. financial infrastructures.

#### AQI FUMIGATION INVESTIGATION

Question. The Agriculture Department's Animal and Plant Health Inspection Service--Agriculture Quarantine Inspection (AQI) program was transferred by law to the Department of Homeland Security. However, the investigators who follow-up, review and investigate the importation of prohibited goods from prohibited countries remain part of the Agriculture Department. Similarly, the personnel responsible for fumigation, following the discovery of pests, remain at USDA. Does this make sense? Is the Administration considering a legislative fix to correct this contradiction?

Answer. The separation of mutually dependent program functions, such as the USDA investigators and personnel responsible for fumigation, from the AQI program transferred to the DHS is problematic and requires high levels of cooperation, communication, and coordination at multiple levels. To facilitate this, DHS and USDA addressed issues early by including relevant Articles in a Memorandum of Agreement (MOA) required by the Homeland Security Act of 2002. Specifically, there are Articles for separating functions and then coordinating these functions once separated. Further, additional and more specific agreements are necessary and are being developed. The MOA will be periodically reviewed and modified as mutually agreed to by DHS and USDA. Through the MOA and additional, more specific agreements, DHS and USDA will have an opportunity to re-adjust the assignment of program functions and responsibilities to maximize collective ability to carry out respective missions. Program officials from both DHS and USDA are working together to accomplish this. Legislative fixes offer another means to accomplish necessary and beneficial re-adjustments and changes. DHS Agricultural Inspection Policy and Program staff is not currently working on developing legislative fixes.

## JUSTICE DEPARTMENT'S RECENT DECISION REGARDING ILLEGAL IMMIGRANTS

Question. On April 24, Attorney General Ashcroft announced that his agency has determined that broad categories of foreigners who arrive in the U.S. illegally can be detained indefinitely without consideration of their individual circumstances if immigration officials say their release would endanger national security. Apparently, Homeland Security officials appealed that decision but their objections were overruled by the Attorney General. There are significant costs that are born by detaining illegal immigrants until their eventual deportation. For instance, it is estimated that the detention of Haitians in Florida over a 6 month period has cost the Department \$12.5 million. Given that the Justice Department decision could have a significant impact on the Homeland Security Department's budget, how will the costs of these policy decisions be paid and by whom? Is the Department making further appeals of the Justice Department's ruling in this case?

Answer. BICE is fully supportive of the decision by the Attorney General to allow national security implications to be considered as part of bond determinations. This decision was requested by BICE in the face of a recent Board of Immigration Appeals (BIA) decision which had ruled that bond determinations could only be based on individual circumstances.

## DETENTION AND REMOVAL

Question. The fiscal year 2004 budget request for detention and removal activities appears to be cut by \$37.4 million below the level appropriated in the fiscal year 2003 Omnibus Act. Given Attorney General Ashcroft's decision to permit the detention--on national security grounds--of entire categories of aliens found entering or residing in the United States, as well as the already relatively crowded conditions at ICE detention facilities across the country, how can the Department justify any reductions in this activity? Will the Justice Department provide additional funds to bridge any potential resources gaps or will this just become yet another unfunded mandate?

Answer. As stated previously, BICE is fully supportive of the decision by the Attorney General to allow national security implications to be considered as part of bond determinations. This decision was requested by BICE in the face of a recent Board of Immigration Appeals (BIA) decision which had ruled that bond determinations could only be based on individual circumstances.

There were two significant reductions to the funding level for the fiscal year 2003 Detention and Removal budget. In the appropriate account, \$615 million identified for the Office of the Federal Detention Trustee was reduced by \$22 million in the Conference Report. In the User Fee account, Detention and Removal funds were reduced by \$5.6 million due to a decrease in expected User Fee revenue. As a result, 1,081 beds would have to be reduced. If a reduction in beds is necessary, the result will be 9,729 fewer aliens being detained. For aliens in detention, approximately 92 percent are removed, while approximately 13 percent of aliens on the non-detained docket are removed. Thus, the reduction in 1,081 beds may result in 7,686 fewer removals.

## LETTERS OF INTENT

Question. The fiscal year 2003 Iraqi War Supplemental (Public Law

108-11) included a provision allowing the Under Secretary for Border and Transportation Security to issue letters of intent to airports to provide assistance in the installation of explosive detection systems. What is the status of this issue? Is the Office of Management and Budget delaying the issuance of these letters?

Answer. TSA has received OMB approval to begin using the LOI process. Once an LOI is established, TSA and the relevant airport development authority enter into a Memorandum of Agreement (MOA) to outline the specific details of the work to be accomplished to complete an in-line explosive detection system (EDS) solution.

#### HIGH THREAT URBAN AREAS

Question. Just last week the Office for Domestic Preparedness released the application kit for the \$100 million High Threat Urban Area program that Congress funded in the fiscal year 2003 Omnibus Appropriations Act. The applications for the seven eligible cities are due June 16. By the time the funds get to the cities, it will have been at least 4\1/2\ months since the Omnibus bill was signed into law. Getting out this first round of money required a lot of work on the part of the Department. You had to develop a funding formula from scratch, and had to design an application kit. But I'm concerned about the next round of funding.

In the fiscal year 2003 supplemental, Congress appropriated \$700 million for the high threat urban area program. I do not want cities-- and this time it will be more than just seven eligible cities--to wait 4 months to receive their grants. When will you award the \$700 million? Congress required that the \$700 million be allocated to high threat urban areas within 60 days of enactment, which is June 11, 2003. Given that applications for the first round of funding are due June 16, can the Department award all \$800 million at that time? This would prevent cities from applying more than once for the same program, and would allow for coordinated planning and implementation.

Answer. Due to concerns from the government as well as first responders in the field regarding the grant funding reaching local jurisdictions in a timely manner, the grant application for the approximately \$100 million for the Urban Areas Security Initiative incorporates a strict timeline in order to facilitate the release and obligation of this funding. The application kit was posted online on April 30, 2003, with a deadline for applications due June 16, 2003. The additional \$700 million referenced in Public-Law 108-11, The Wartime Supplemental Appropriations, was not allocated by DHS before April 30, 2003. On May 14, 2003, DHS announced how the \$700 million was allocated, identifying the cities that are eligible to participate in the program. Therefore, the first application cannot be combined with the next application for the \$700 million. To expedite the grant awards for the \$700 million, ODP will again adhere to a strict timeline.

#### FIRE GRANTS AND FIRST RESPONDER FUNDING

Question. Mr. Secretary, FEMA--in conjunction with the National Fire Protection Association--released a study on January 22, 2002, entitled ``A Needs Assessment of the U.S. Fire Service'' which reported that only 13 percent of our nation's fire departments are prepared handle a chemical or biological attack involving ten or more injuries. Last year, FEMA awarded \$334 million in fire grants but received more than 19,000 applications that requested over \$2 billion.

Given the critical unmet needs of our nation's first responders, I simply do not understand the Administration's lack of commitment to this program. In fiscal year 2002, the President refused to spend \$150 million approved by the Congress for this program. For fiscal year 2003, the President proposed to eliminate all funding for the program. For fiscal year 2004 you are proposing a 33 percent reduction to the fire grants program from the 2003 enacted amount of \$745 million.

Please explain to the Subcommittee why the Administration does not view this program as a critical part of our strategy to secure the homeland.

Answer. ODP has been providing Federal assistance to State and local emergency responders through grant funding since 1998. Eligible disciplines for these grant funds include the fire service, law enforcement, emergency medical services, and other emergency services disciplines. While the allowable costs for these grants do not include hiring of operational personnel such as fire fighters, they do include many items related to prevention, response and recovery, such as: equipment, exercises, training and administrative staff and overtime costs. All of these items are crucial to the support and readiness of fire departments.

The Department of Homeland Security budget request for fiscal year 2004 includes at least an additional \$500 million in grants that contribute to firefighter preparedness, as well as \$2.5 billion for State domestic preparedness grants to provide equipment, exercises, strategic planning, and support to the national training and exercise program. This amount is in addition to the \$566.295 million in State domestic preparedness grants available through the fiscal year 2003 State Homeland Security Grant Program (SHSGP) I, and the \$1.5 billion in State domestic preparedness grants that is available for the SHSGP II. Basic turn-out gear covered under the Fire Act is also equipment that would be used in response to a terrorist event, therefore funds that are available for the State homeland security grants can be used to provide much needed equipment and other direct services to the fire fighting community.

#### FISCAL YEAR 2003 TSA FINANCIAL PLAN

Question. The Transportation Security Administration advised the Congress that we would be provided with a spending plan for how you intend to obligate the funds appropriated to your agency for this fiscal year. We have now entered the 8 month of this fiscal year--and we have yet to be provided with such a spending plan. We are told that TSA faces a significant funding shortfall--perhaps in excess of \$900 million. We have not received a supplemental request from the President to meet this shortfall. The Administration opposed efforts to add funding to the recent supplemental to close the operating deficit. Do you believe that TSA can live within its current budget and, if so, what steps are you and they taking to live within that budget? Why has TSA waited 3 months since enactment of the Omnibus to deliver a plan?

Answer. Since enactment of fiscal year 2003 Omnibus Appropriations Act (Public Law 108-7) in February and the Emergency Wartime Supplemental Appropriations Act (Public Law 108-11), TSA has been working with the assistance of the Department of Homeland Security and the Office of Management and Budget to develop a budget execution plan that will meet the needs of the agency within the funding provided.

Since the establishment of TSA, the agency has confronted a series of unforeseen and extraordinary requirements as it worked to meet

mandated deadlines and to establish normalized business practices. In addition, development of a fiscal year 2003 budget plan was particularly challenging since the Omnibus Appropriations Act contained a large number of earmarks that were not budgeted. The transfer of TSA from the Department of Transportation to the Department of Homeland Security on March 1 was another unusual dynamic.

TSA has prioritized its spending needs for fiscal year 2003, resulting in a budget plan that has been transmitted to the Congress as a reprogramming notification. TSA will adhere to this plan and will closely monitor its execution for the remainder of the fiscal year.

#### INS CONSTRUCTION BACKLOG

Question. Please provide the Subcommittee with details on the current INS construction backlog.

Answer. The DHS will begin addressing these backlogs following a strategic, multi-year approach.

#### PRIVATE MAIL RADIATION DETECTION EQUIPMENT

Question. The Department has provided its employees who inspect U.S. Postal Service mail with radiation detection equipment. Does it also provide similar equipment for employees who inspect United Parcel Service and FedEx mail? If not, why not? Is there a plan to provide this equipment in the future?

Answer. The Bureau of Customs and Border Protection (BCBP) personnel are equipped with radiation detection devices at FedEx and United Parcel Service (UPS) facilities. At the present time BCBP personnel use both Personal Radiation Detectors (PRD) and Radiation Isotope Identification Devices to screen cargo at both FedEx and UPS facilities.

Both UPS and FedEx are in the process of procuring and installing company owned radiation detection devices at overseas locations. Once completely installed, this equipment will allow these companies to screen all incoming cargo and parcels before entering the commerce of the United States. Both companies will be relying on several types of equipment, such as Hand-Held Devices and Radiation Portal Monitors, at their overseas facilities. The types of radiation screening devices used will depend on the size of the facility and amount of cargo screened.

#### BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT: ON-GOING OPERATION

Question. My staff recently was briefed on an on-going Bureau of Immigration and Customs Enforcement activity referred to as ``Operation Blue Girard''. Is there money in the fiscal year 2004 budget request specifically designated for this activity? If so, how much and for what purposes?

Answer. Operation Blue Girard is one part of a multifaceted port security program coordinated by the BICE SAIC/Miami, which falls under Operation Enduring Vigilance, which is a comprehensive multi agency approach to securing the seaports, cruise passengers and sea cargo in South Florida. Agencies from the Federal, State and local governments combine resources to address the threat to homeland security and from drug or alien smuggling. There is no funding in the fiscal year 2004 budget request specifically designated for this activity. Funding for maritime port security operations such as Operation Enduring Vigilance

is handled internally within the agency budget process to include special operations funding.

#### WYDEN AMENDMENT TO S. 165--AIR CARGO SECURITY IMPROVEMENT ACT

Question. During mark-up of S. 165 in the Commerce Committee, Senator Wyden won voice vote approval of an amendment requiring a report on plans by the Transportation Security Administration to gather data on plane passengers. He said he wanted to determine how the collection of data impacts civil liberties and privacy. Has the Administration taken a position on the Wyden provision? Does it share the same concerns about personal privacy and data mining issues?

Answer. The Administration does not oppose the Wyden provision. TSA is committed to ensuring that personal privacy is protected in the CAPPS II program and welcomes the opportunity offered by Senator Wyden to demonstrate that commitment. With regard to data mining, while the Administration believes that it can be an important tool, the CAPPS II program will not be involved in data mining.

#### PORt SECURITY ASSESSMENTS

Question. Have you reviewed the port security assessments that have been completed to date to determine if there are patterns in port vulnerability that ports generally should begin to address immediately?

Answer. Review of the port security assessments completed to date has yielded valuable preliminary information regarding security enhancement requirements. These assessments have identified a number of physical security enhancements that were either non-existent or needed improvement, such as fencing, lighting, and closed circuit television systems. Other common recommendations included: standards for transportation worker identifications systems, security plans, communications systems, and screening equipment standards for cargo and passengers.

#### ENFORCEMENT OF INTELLECTUAL PROPERTY LAWS

Question. The enforcement activities of the Customs Service are critical to the health, safety and well being of U.S. citizens and our economy. Historically, Customs has been our first line of defense and this is reflected by the responsibilities we have given Customs through the laws granting it powers to detain citizens and cargo and, if necessary, to seize and forfeit goods.

In the 5 fiscal years from 1998 to 2002, Customs stopped over 19,700 shipments because of trademark and copyright violations. Customs seized over \$373.9 million of counterfeit and pirated product. Because of the public health and safety risks posed by counterfeits and the injury to our commercial enterprises, these enforcement activities should continue in order to protect our national economic security.

In several well-publicized cases, millions of dollars made from cigarette smuggling were funneled to terrorist groups. Given that there may be numerous priority areas for our new bureaus with border responsibilities (Bureau of Customs and Border Protection and Bureau of Immigration and Customs Enforcement), where is the issue of product counterfeiting and piracy on your list of priorities?

Answer. Customs and Border Protection's top priority is the detection and apprehension of terrorism and terrorism related material. Interdiction of counterfeiting and piracy remain a priority because of

the potential use of money generated from the smuggling of counterfeited and pirated goods for terrorist activity

Question. Also, the security of the United States has many dimensions. How are the new agencies--the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement--going to increase the needed protection of our commercial enterprises from those who bring counterfeit and illegal products into the United States?

Answer. BCBP has increased protection of commercial enterprises by implementing stringent cargo manifest rules, increasing importation research, and conducting more high-risk shipment exams.

Question. The enforcement responsibilities of the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement appear to be distinct; yet, overlapping. How will these two bureaus not only coordinate their enforcement efforts but also strengthen efforts to stop trafficking in counterfeit and illegal products in the United States?

Answer. The combining of agencies and personnel under DHS will increase the research and examination capabilities of each agency. The increase of research and investigative personnel leads to a broader and more productive work force.

Question. In fiscal year 2002, Customs stopped over 5,000 shipments that involved intellectual property theft, amounting to nearly \$100 million. Will this continue to be an area of enforcement in view of the magnitude of the violations?

Answer. Due to the sheer volume and monetary value of BCBP seizures involving intellectual property theft, IPR will continue to be a priority. IPR will continue to be a focus for enforcement in order to protect the owners of intellectual property and prevent the movement of terrorist funds through this illegal activity.

Question. The U.S. Customs Service has been split between the Bureau of Customs and Border Protection and Bureau of Immigration and Customs Enforcement. How will this new structure increase the number of inspections of containers?

Answer. The restructuring of BCBP and BICE will potentially increase the number of inspections. It will allow for a greater amount of personnel dedicated to the research, exam and investigations leading to the apprehension of terrorists or others that commit violations of U.S. laws and regulations.

Question. Given the terrorist link, how can the new Department better target containers and seize illegal products entering the United States?

Answer. BCBP is able to update and implement targeting systems and research shipments related to entities associated with terrorism or commodities associated with acts of terrorism. Advanced technology and cooperation from foreign countries have increased the targeting and interdiction of illegal products from entering the United States.

Question. In terms of budgeting and personnel and training, what is being proposed for fiscal year 2004 compared to the last several years?

Answer. Current projections for fiscal year 2004 are to train approximately 5,000 new inspectors and 2,000 new Border Patrol agents. Past training workloads for new recruits are indicated in the table below.

2001.....	2,100	1,110
2002.....	2,000	2,720
2003.....	1,980	2,960
2004 (est.).....	2,000	N/A

\1\ With the establishment of DHS, legacy INS, Customs and Agriculture inspectors become Field Operations in Customs and Border Protection. Legacy Border Patrol becomes its own Border Protection.

Question. In fiscal year 2002, U.S. Customs seizures of intellectual property reached a new record and eclipsed the previous year by over 33 percent. Illegal cigarettes shot up from the 5th largest commodity to the top commodity being smuggled into the United States. Is the large increase in tobacco smuggling due to operations run by foreign terrorists?

Answer. Tobacco smuggling has not been linked solely to the funding of terrorist operations. Tobacco smuggling is known to be a profitable and highly lucrative cash commodity. However, through the use of BCBP databases tobacco shipments can be tracked and monitored for possible illicit or terrorist activity when linked to direct intelligence or derived from investigations.

Question. What efforts are you taking to intercept cigarette smuggling?

Answer. Efforts to intercept cigarette smuggling include greater scrutiny of imports from international sources known to be lenient to smuggling activity as well as importation trends, and the greater use of non-intrusive examinations. The use of automated targeting systems allows for efficient review of import information. Non-intrusive exams are utilized to uncover false compartments or other methods of concealment.

Question. In the fiscal year 2002 appropriations, \$800,000 was designed for ``tobacco smuggling task forces''? What have the task forces done to increase the number of seizures of illegal product?

Answer. To combat cigarette smuggling, the U.S. Customs Service created a Tobacco Task Force at headquarters. Last fiscal year, two full time agent positions and one full-time intelligence research specialist position were filled. Additionally, one full time agent position in Brussels was filled. This agent serves as coordinator with related European entities as part of the Tobacco Task Force. The Task Force provides coordination and investigative expertise to numerous complex international tobacco smuggling investigations involving Federal, State and Foreign law enforcement agencies. The Task Force provided funding and training in support of joint State/Federal Tobacco Smuggling Task Force members and funded an International Cigarette Smuggling conference in September 2002 for all disciplines of the U.S. Customs Service, to several Federal prosecutors, and to some of our law enforcement counterparts from around the world. These efforts have lead to a large increase in tobacco related investigations and has contributed significantly to the increase in seizures as well. No additional appropriations were earmarked for the Task Force in fiscal year 2003.

Question. In the fiscal year 2002 appropriations, \$5 million went to the Intellectual Property Rights Center and Investigations Initiative. Could you please explain their activities and accomplishments? How does this investigative unit relate to the new bureaus--BCBP and BICE--and how will it increase the likelihood of seizures of illegal products?

Answer. The enforcement of intellectual property rights was a high priority trade strategy for the U.S. Customs Service, Office of Investigations, throughout fiscal year 2002. Since the reorganization, BICE has retained its foremost position. The IPR Center provides coordination and expertise to the BICE field offices in IPR-related investigations. It is a centralized collection and analysis point for allegations of Intellectual Property crime and investigative leads generated by law enforcement agencies, industry associations, the right holders and the public.

In fiscal year 2002, the IPR Center funded twelve Special Agent and nine Intelligence Research Specialists positions. The IPR Center funded positions have allowed the placement of investigative resources in Customs Attache offices located in Beijing, Hong Kong, Bangkok, and Singapore, as well as, field offices located in Houston, Los Angeles, Miami, San Francisco and New York. These resources provided the technical expertise and support, which facilitated successful outcomes in domestic and foreign investigations.

During fiscal year 2002, the Center received over 200 incoming allegations and complaints from industry sources and right holders. After analyzing the information, multiple cases were referred to Customs field offices. During this period, the U.S. Customs Service initiated over 75 IPR related criminal investigations, which resulted in multiple arrests and convictions. In addition, over 85 IPR related seizures were effected by the Customs Service.

During fiscal year 2002, the Center personnel conducted dozens of training and outreach activities to domestic and foreign law enforcement officials, industry groups and associations. The Center personnel are regularly called upon to present the enforcement programs in the IPR arena to foreign dignitaries and delegations, who visit the United States as part of the State Department's Foreign Visitor Program and on other initiatives.

The Center is one of the leading members of the INTERPOL Intellectual Property Crime Action Group, which is a joint industry-law enforcement group designed to promote and coordinate IPR enforcement around the world. The IPR Center is now part of the Immigration & Customs Enforcement. The BICE and BCBP elements involved in the enforcement of Intellectual Property laws are continuing their respective duties and operational relationship. The Director of IPR Center continues to chair the BICE-BCBP IPR Trade Strategy Board meetings and represents BICE as the leading component of the joint effort in this area.

Question. Could you provide this Subcommittee with a report detailing your plans in fiscal year 2004 for the interdiction of illegal products in the United States and how you would measure success in this critical area? I would appreciate having such a report within 30 days for the Subcommittee's use in consideration of the fiscal year 2004 budget request of the department.

Answer. BCBP agrees to provide the report.

Question. One example cited of a decrease in emphasis on intellectual property (IP) enforcement is the cancellation of training sessions. I am told that several ports of entry including Honolulu, Buffalo, Cleveland, Champlain (NY), Detroit, Port Huron (MI), St. Alban's (VT), San Francisco/Oakland, and Minneapolis have cancelled scheduled IP training sessions. The reason given is that a lack of resources and new mission priorities make IPR enforcement a non-essential activity. Are you aware of these cancellations and don't you believe these sessions remain important to the Department's overall

mission? What figures do you have on the number of training sessions cancelled this fiscal year? Should such training be centralized through the Department or left to the individual ports?

Answer. Port directors are free to accept or reject offers of product identification training offered by parties-in-interest. Given the fact that antiterrorism is, and must continue to be, our first priority, field resources have been reallocated to respond to this threat, leaving fewer resources available for IPR enforcement. In the case of the vast majority of the ports cited, they have not historically been major points of entry for IPR violating goods, thus the need for such training is not critical to these locations.

Question. These same companies indicate that Customs inspectors familiar with IPR enforcement are being reassigned at alarming rates. For example, the Port of Newark, New Jersey reportedly had 40 inspectors assigned to conduct IP investigations before the move the DHS, and now it has one. We have heard that Los Angeles has seen a similar reduction. Is this true? Have there been actions at other ports to divert agents from IP inspections to other functions?

Answer. In order to respond to our antiterrorism mission, it has been necessary to reallocate resources at all locations.

Question. What is the effect of changes in the Threat Advisory Level to Custom's mission priorities? Has DHS established enforcement or operations guidelines for the different security levels? What impact does a change from Code Yellow to Code Orange have on the enforcement of intellectual property rights?

Answer. When the nation is at Code Orange, all cargo examination criteria which do not have an antiterrorism, national security, or public health and safety nexus are suspended.

Question. The Container Security Initiative (CSI) is designed in part to allow Customs to search more cargo containers, better target suspect shipments, and still facilitate trade. Will CSI also help in the detection of other nefarious products such as drugs and counterfeit merchandise, or is it restricted to protecting against weapons? What steps are you taking to ensure that programs such as the CSI aren't used against the United States to facilitate trafficking in illegal goods that don't pose an immediate threat to the public?

Answer. The twin goals of the BCBP are to increase security and to facilitate trade. BCBPs obligation to make our borders and our country safer, includes making sure that legitimate goods continue to enter efficiently. In order to fulfill our twin goals, we have developed and implemented many important initiatives designed to carry out both of those goals effectively.

In a standard CSI in-country team, BCBP officers target with the host nation cargo containers destined for, or transiting through, the United States. If during the course of the manifest targeting or container screening processes the BCBP officer discloses a shipment containing goods which violate a U.S. law or regulation, the information is transmitted to our National Targeting Center, the port of destination, and the appropriate Bureau of Immigration and Customs Enforcement office for action.

The CSI in-country team pre-screens and inspects commodities prior to lading in the host nation. Commodities rejected for potential weapons of mass destruction (WMD) or terrorist contraband will not be permitted to continue on its course to an U.S. port. Furthermore, that ship will not be allowed into U.S. territorial waters.

If, on the other hand, a container is targeted for inspection for commercial reasons, and is not inspected in the foreign port, it will

be inspected when it reaches the intended U.S. port of entry. Under this scenario, BCBP officers at the U.S. port of entry will initiate the appropriate enforcement and penalty against the member the chain supply (carrier, importer).

Question. In an article posted on its website describing Operation Green Quest, Customs States that one of the many criminal enterprises used to fund terrorist organizations derive is the sale of counterfeit merchandise. To what extent has Operation Green Quest investigated or uncovered the connection between intellectual property theft and terrorist financing? To the extent that this link has been made, shouldn't Customs continue to focus on IP enforcement as a means to foreclose counterfeiting and piracy as a source of funding for terrorists?

Answer. Operation Green Quest investigations have revealed that a variety of criminal activities serve as funding sources for various criminal elements, some of which are alleged to have ties to terrorist organizations. Among these are violations of laws protecting intellectual property rights and prohibiting the manufacture, trafficking and sale of counterfeit merchandise. The Bureau of Immigration and Customs Enforcement is conducting several on-going investigations involving the use of proceeds derived from the sale and trafficking of counterfeit merchandise, alleged to support designated terrorist organizations. BICE is committed to investigating any violation of Federal law that may be used to fund criminal enterprises.

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Question Submitted by Senator Patrick J. Leahy

#### AIRPORT SCREENERS

Question. I understand the TSA has finished assessing how many screener positions--full- and part-time--are needed at each airport around the country and that 6,000 airport security jobs will be trimmed by the end of this fiscal year. What is the average percentage of cuts taking place at airports nationwide? And what is the percentage of cuts you expect at the Burlington International Airport in Vermont? In addition, did the cuts planned for Burlington take into account that bomb-detection machines are not yet in place at the airport?

Answer. Nationwide, the percentage reduction of passenger and baggage screeners is 11 percent. To screen passengers' baggage at BTV, all baggage screening equipment has been deployed and the screener workforce at the airport has been hired and fully trained to provide the proper operation of this equipment. TSA has taken into account BTV's recent receipt of twelve additional Electronic Trace Detection machines. TSA is concluding a second round of modeling to determine final screener staffing numbers for each airport.

#### SUBCOMMITTEE RECESS

Senator Cochran. Mr. Secretary, we appreciate very much your cooperation with our subcommittee. We had planned to continue to review the fiscal year 2004 budget request for the Department of Homeland Security on Thursday, with witnesses being the Commissioner of the Bureau of Customs and Border Protection, the Administrator of the Transportation Security Administration, and the Director of the Federal Law Enforcement

Training Center, but because of schedule conflicts my intention now is to try to reschedule that hearing for next week. We will make an announcement about our next hearing as soon as possible.

Senator Byrd. Senator, do I understand you, Mr. Chairman, to say that the Thursday meeting this week may be rescheduled?

Senator Cochran. Yes, sir. We will try to reschedule that hearing for next week.

Senator Byrd. I'm glad you're doing that, because the Armed Services Committee is marking up the DOD authorization bill at the same time Thursday morning that the subcommittee had planned that hearing.

Senator Cochran. I thank you for advising me of that conflict. The subcommittee will stand in recess.

[Whereupon, at 11:52 a.m., Tuesday, May 6, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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